

**PUEBLO OF ISLETA**  
**P. O. BOX 1270, ISLETA, NM 87022**

May 20, 2015

Ron Curry, Administrator  
U.S. EPA Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

***SENT VIA FACSIMILE MAIL (214) 665-2118 AND U.S. CERTIFIED MAIL***

**SUBJECT:** Proposed Class II Fine for NPDES Permit No. NM0022250 Wastewater  
Treatment Plant, Albuquerque, New Mexico

Dear Mr. Curry:

This letter conveys the position of the Pueblo of Isleta concerning the February 27, 2015 spill of approximately 6,000,000 gallons of partially treated effluent into the Rio Grande by the Albuquerque Bernalillo County Water Utility Authority ("ABCWUA"), as well as the proposed civil fine to be imposed by EPA Region 6. Reference is made to the meetings between U.S. EPA Region 6 Management and Pueblo of Isleta Governor and Tribal Council on March 27 and April 29, 2015.

The Pueblo of Isleta does not support the imposition of a Class II Fine and requests U.S. EPA to impose a fine greater than Class II. Given: (1) the severity of the spill, (2) the violation to the Pueblo's Water Quality Standards for primary contact along the reach of the Rio Grande below the wastewater treatment plant, and (3) the many non-compliance violations by ABCWUA in the recent past already known to the Pueblo and EPA, the Pueblo of Isleta believes that the upper threshold of the Class II fine is incommensurate with the severity of the February 27, 2015 violation and does not send a strong enough message to ABCWUA that this type of violation will not be tolerated in the future. The Pueblo of Isleta was forced to put severe restrictions on use of the Rio Grande based on the spill.

The Pueblo also requests U.S. EPA Region 6 to utilize the formula described in the INTERIM CLEAN WATER ACT SETTLEMENT PENALTY POLICY to compute the civil fine, as well as to research civil fines imposed by other EPA regions for similar type of violations, prior to issuing its civil fine. It is the Pueblo's understanding from our April 29, 2015 meeting with you that the EPA Administrator is aware of the February 27<sup>th</sup> spill.

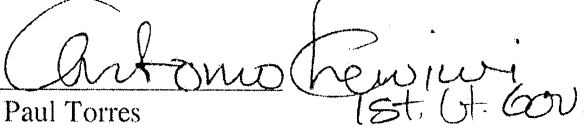


The Pueblo of Isleta understands from our meetings with EPA Region 6 that if a fine greater than a Class II Fine is imposed, that the U.S. Department of Justice will become the lead agency. The Pueblo of Isleta requests an opportunity to propose a Supplemental Environmental Project<sup>1</sup> associated with EPA's proposed fine.

Thank you for consideration of our position on this important matter.

Sincerely,

**PUEBLO OF ISLETA**

  
E. Paul Torres  
Governor

**Copy:** William K. Honker, P.E., Director, Water Quality Protection Division (6WQ)  
John Blevins, Director, Compliance Assurance Enforcement Division, U.S. EPA R6  
Ramona M. Montoya, Pueblo of Isleta Water Quality Control Officer  
Frank E. Lujan, Pueblo of Isleta Tribal Council

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<sup>1</sup> Use of SEPs in a particular case is entirely within the discretion of EPA, and the Department of Justice in judicial cases. INTERIM CLEAN WATER ACT SETTLEMENT PENALTY POLICY at 22.

## Houston, Robert

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**From:** Kracher, Christina  
**Sent:** Thursday, May 21, 2015 8:35 AM  
**To:** Saunders, Jerry; Blevins, John; Gray, David; Blanco, Arturo  
**Cc:** Houston, Robert; Gee, Randy; Chang-Vaughan, Ellen  
**Subject:** Letter: Proposed Class II Fine for NPDES Permit No. NM0022250 WWTP, Albuquerque New Mexico  
**Attachments:** DOC052015-002.pdf  
**Importance:** High

All:

Attached is a comment letter I received from the Pueblo of Isleta to Region 6 regarding the ABCWUA WWTP spill, the potential penalty range discussed at the April 29 meeting with the Council, as well as the possibility of a SEP and impacts to the Pueblo.

Thank you,  
Christina

---

**From:** Richesin, Marie [mailto:poi09103@isletapueblo.com]  
**Sent:** Wednesday, May 20, 2015 5:53 PM  
**To:** Kracher, Christina; Sanchez, Barbara; Frank Lujan ; Lente, Michael; Lente, Beatrice; Abeita, Fernando; Teller, Verna; Abeita, Ulysses; Governor Eddie Paul Torres; Lt. Governor Chewiwi, Antonio; Lt. Governor Abeita, Isidor; Honker, William; Blevins, John; POI36871@isletapueblo.com  
**Cc:** Sutherland, Carmela; Mariano, Rochelle; Zuni, Sara; Cherino, Miriam  
**Subject:** Letter: Proposed Class II Fine for NPDES Permit No. NM0022250 WWTP, Albuquerque New Mexico

Good Afternoon,

Attached you will find a letter regarding the subject matter.  
The original will be mailed out USPS Certified Return Receipt, tomorrow.  
You may contact Pablo Padilla, at the number below, with any questions.

Thank you,

*Marie M. Richesin*

Administrative Assistant

Pueblo of Isleta-

Tribal Attorney's Office

Phone: 505-869-9716

Fax: 505-869-7591

Email- [poi09103@isletapueblo.com](mailto:poi09103@isletapueblo.com)





## Houston, Robert

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**From:** Chang-Vaughan, Ellen  
**Sent:** Thursday, September 03, 2015 12:50 PM  
**To:** Padilla Jr., Pablo  
**Cc:** Saunders, Jerry; Houston, Robert  
**Subject:** RE: Comments on Albuquerque Complaint

Hi Pablo,

I wanted to let you know that we will be meeting with Albuquerque on September 17, 2015, to discuss the complaint. If the Tribe is interested in having Albuquerque consider a Supplemental Environmental Project, I would encourage you to share some SEP ideas with Albuquerque soon. Thank you.

---

**From:** Padilla Jr., Pablo [mailto:Tribal.Attorney@Isletapueblo.com]  
**Sent:** Monday, July 13, 2015 5:35 PM  
**To:** Chang-Vaughan, Ellen  
**Cc:** Cherino, Miriam  
**Subject:** RE: Comments on Albuquerque Complaint

Hi Ellen,

Please forward me the subject Complaint. Thank you.

**PABLO H. PADILLA JR., GENERAL LEGAL COUNSEL**  
Office of the Governor, Pueblo of Isleta  
P.O. Box 1270 Isleta, New Mexico 87022  
Phone: (505) 869-9716; Fax (505) 869-4236  
Email: [Tribal.Attorney@Isletapueblo.com](mailto:Tribal.Attorney@Isletapueblo.com)

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**From:** Chang-Vaughan, Ellen [mailto:Chang-Vaughan.Ellen@epa.gov]  
**Sent:** Monday, July 13, 2015 6:45 AM  
**To:** Padilla Jr., Pablo  
**Subject:** Comments on Albuquerque Complaint

Dear Mr. Padilla,

I am counsel for EPA on the Albuquerque matter and Christina Kracher had mentioned that I was the legal contact in an earlier email. Does the Tribe have any comments on the Complaint filed against Albuquerque on June 10, 2015? Please let me know. Thank you.

Ellen Chang Vaughan  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 6  
Office of Regional Counsel (6RC-EW)

1445 Ross Ave.  
Dallas, TX 75202  
[chang-vaughan.ellen@epa.gov](mailto:chang-vaughan.ellen@epa.gov)  
(214) 665-7328 (Office)  
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## Houston, Robert

---

**From:** Stomp, John M. <JStomp@abcwua.org>  
**Sent:** Tuesday, September 22, 2015 11:58 AM  
**To:** Houston, Robert  
**Cc:** Peters, Carol; Chang-Vaughan, Ellen; Leder, Charles S.; Kelly, Mark P.; Kolberg, Charles W.  
**Subject:** RE: CWA-06-2015-1777 meeting

Robert:

Thanks for sending this information. We will be developing the SEP and will be getting that back to you as the settlement agreement progresses. JMS

**From:** Houston, Robert [mailto:Houston.Robert@epa.gov]  
**Sent:** Thursday, September 17, 2015 1:58 PM  
**To:** Stomp, John M. <JStomp@abcwua.org>  
**Cc:** Peters, Carol <Peters.Carol@epa.gov>; Chang-Vaughan, Ellen <Chang-Vaughan.Ellen@epa.gov>; Leder, Charles S. <cleder@abcwua.org>; Kelly, Mark P. <mkelly@abcwua.org>; Kolberg, Charles W. <ckolberg@abcwua.org>  
**Subject:** CWA-06-2015-1777 meeting

All,

Thank you for attending today's meeting. Attached is the sign-in sheet, CWA Settlement Penalty Policy and SEP Policy.

Robert Houston  
Offshore Oil & Gas Enforcement Coordinator  
State of Oklahoma Enforcement Coordinator  
U.S. Environmental Protection Agency  
1445 Ross Avenue, Suite 1200 (6EN-WM)  
Dallas, Texas 75202-2733  
Office: (214) 665-8565  
eMail: [houston.robert@epa.gov](mailto:houston.robert@epa.gov)



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## Houston, Robert

---

**From:** Chang-Vaughan, Ellen  
**Sent:** Wednesday, October 21, 2015 9:37 AM  
**To:** Kolberg, Charles W.  
**Cc:** Houston, Robert  
**Subject:** Albuquerque

Good morning,  
I am just following up on the status of a proposed Supplemental Environmental Project. Thanks.

Ellen Chang Vaughan  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 6  
Office of Regional Counsel (6RC-EW)  
1445 Ross Ave.  
Dallas, TX 75202  
chang-vaughan.ellen@epa.gov  
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## Houston, Robert

---

**From:** Kolberg, Charles W. <ckolberg@abcwua.org>  
**Sent:** Wednesday, October 21, 2015 5:38 PM  
**To:** Chang-Vaughan, Ellen  
**Cc:** Houston, Robert; Stomp, John M.  
**Subject:** RE: Albuquerque

Good afternoon,

There have been meetings between our environmental scientist and the federal refuge director and the county engineer who are working on the reuse water project. Although this represents real progress on defining what we plan to present, we are not ready yet. Thank you for your continued patience.

*Charles W. Kolberg  
General Counsel,  
Albuquerque Bernalillo County Water Utility Authority  
PO Box 568  
Albuquerque New Mexico, 87103  
(505) 289-3051 office  
(505) 917-3277 mobile*

---

**From:** Chang-Vaughan, Ellen [mailto:Chang-Vaughan.Ellen@epa.gov]  
**Sent:** Wednesday, October 21, 2015 8:37 AM  
**To:** Kolberg, Charles W.  
**Cc:** Houston, Robert  
**Subject:** Albuquerque

Good morning,

I am just following up on the status of a proposed Supplemental Environmental Project. Thanks.

Ellen Chang Vaughan  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 6  
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1445 Ross Ave.  
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## Houston, Robert

---

**From:** Kolberg, Charles W. <ckolberg@abcwua.org>  
**Sent:** Friday, October 30, 2015 2:01 PM  
**To:** Chang-Vaughan, Ellen  
**Cc:** Houston, Robert; Stomp, John M.  
**Subject:** RE: Settlement Status in Albuquerque Bernalillo,

Ellen,  
All of our meetings are done and we have a design and a preliminary write up. The costing is still pending because the county is bidding the first phase in November.  
I think your goal of finishing in November is doable. Thank you for replying to Office of the Administrative Law Judge about our status.

---

**From:** Chang-Vaughan, Ellen [mailto:Chang-Vaughan.Ellen@epa.gov]  
**Sent:** Friday, October 30, 2015 6:08 AM  
**To:** Kolberg, Charles W.  
**Cc:** Houston, Robert; Stomp, John M.  
**Subject:** FW: Settlement Status in Albuquerque Bernalillo,

Charles,  
Good morning. Could you and your team please hash out firm details on the SEP as soon as possible. I would like to start working on a Consent Agreement Final Order next week and have a signed/filed copy to the Judge by the end of the calendar year. If you do not have everything detailed yet, perhaps you can send me a description of the SEP next week and then a cost breakdown the week of November 9<sup>th</sup>? I know with the holidays coming up, there may be people in and out of the office, so I would like to get this moving quickly. Thanks.

**From:** Angeles, Mary  
**Sent:** Thursday, October 29, 2015 7:22 AM  
**To:** Chang-Vaughan, Ellen  
**Subject:** Settlement Status in Albuquerque Bernalillo,

Dear Ms. Chang-Vaughan:  
Have the parties settled this matter. If so, please email us a copy, cc to the HQ Hearing Clerk via the [oaljfilng@epa.gov](mailto:oaljfilng@epa.gov), a fully executed CAFO. If not, ADR has expired on 10/20/15. Perhaps the parties need a little more time before Judge Gunning returns the matter to the litigation docket. Thank you.

*Best,  
Mary Angeles  
Paralegal Specialist*



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U.S. Environmental Protection Agency

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(FedEx/UPS Overnight mail)

USEPA, OALJ

Ronald Reagan Bldg.

1300 Pennsylvania Ave. NW

Washington, DC 20004

## Houston, Robert

---

**From:** Chang-Vaughan, Ellen  
**Sent:** Tuesday, November 17, 2015 1:55 PM  
**To:** Kolberg, Charles W.  
**Cc:** Houston, Robert; Stomp, John M.  
**Subject:** RE: Settlement Status in Albuquerque Bernalillo,

Thanks, Charles. I look forward to the receiving the materials.

**From:** Kolberg, Charles W. [mailto:ckolberg@abcwua.org]  
**Sent:** Tuesday, November 17, 2015 1:53 PM  
**To:** Chang-Vaughan, Ellen  
**Cc:** Houston, Robert; Stomp, John M.  
**Subject:** RE: Settlement Status in Albuquerque Bernalillo,

Ellen,

John has a draft and will be sending material to Robert today. We may need to alter the format based on your comments but I think the substance of the project is fairly well documented.

Please let us know what else needs to be done, I share your hope that we can wrap this up soon.

*Charles W. Kolberg  
General Counsel,  
Albuquerque Bernalillo County Water Utility Authority  
PO Box 568  
Albuquerque New Mexico, 87103  
(505) 289-3051 office  
(505) 917-3277 mobile*

---

**From:** Chang-Vaughan, Ellen [mailto:Chang-Vaughan.Ellen@epa.gov]  
**Sent:** Monday, November 16, 2015 11:39 AM  
**To:** Kolberg, Charles W.  
**Cc:** Houston, Robert; Stomp, John M.  
**Subject:** RE: Settlement Status in Albuquerque Bernalillo,

Charles,

Judge Gunning will have to report to Judge Biro the status of our case by November 20, this Friday. Could you please send the documentation I have requested below by this Wednesday, November 18, so that I can report to Judge Gunning that we are making progress? I would like to tell her that we are working on a Consent Agreement and Final Order. I am still hoping to have a Consent Agreement and Final Order filed by the end of this calendar year. Thanks.

**From:** Chang-Vaughan, Ellen  
**Sent:** Tuesday, November 10, 2015 10:22 AM  
**To:** 'Kolberg, Charles W.'  
**Cc:** Houston, Robert; Stomp, John M.  
**Subject:** RE: Settlement Status in Albuquerque Bernalillo,

Hi Charles,

Would you be able to share your design and write-up with us today? I would like to start drafting the Consent Agreement and Final Order and include details of the SEP. Also, would the cost breakdown be ready by Friday? Thanks.

**From:** Kolberg, Charles W. [<mailto:ckolberg@abcwua.org>]  
**Sent:** Friday, October 30, 2015 2:01 PM  
**To:** Chang-Vaughan, Ellen  
**Cc:** Houston, Robert; Stomp, John M.  
**Subject:** RE: Settlement Status in Albuquerque Bernalillo,

Ellen,  
All of our meetings are done and we have a design and a preliminary write up. The costing is still pending because the county is bidding the first phase in November.  
I think your goal of finishing in November is doable. Thank you for replying to Office of the Administrative Law Judge about our status.

---

**From:** Chang-Vaughan, Ellen [<mailto:Chang-Vaughan.Ellen@epa.gov>]  
**Sent:** Friday, October 30, 2015 6:08 AM  
**To:** Kolberg, Charles W.  
**Cc:** Houston, Robert; Stomp, John M.  
**Subject:** FW: Settlement Status in Albuquerque Bernalillo,

Charles,  
Good morning. Could you and your team please hash out firm details on the SEP as soon as possible. I would like to start working on a Consent Agreement Final Order next week and have a signed/filed copy to the Judge by the end of the calendar year. If you do not have everything detailed yet, perhaps you can send me a description of the SEP next week and then a cost breakdown the week of November 9<sup>th</sup>? I know with the holidays coming up, there may be people in and out of the office, so I would like to get this moving quickly. Thanks.

---

**From:** Angeles, Mary  
**Sent:** Thursday, October 29, 2015 7:22 AM  
**To:** Chang-Vaughan, Ellen  
**Subject:** Settlement Status in Albuquerque Bernalillo,

Dear Ms. Chang-Vaughan:  
Have the parties settled this matter. If so, please email us a copy, cc to the HQ Hearing Clerk via the [oaljfilng@epa.gov](mailto:oaljfilng@epa.gov), a fully executed CAFO. If not, ADR has expired on 10/20/15. Perhaps the parties need a little more time before Judge Gunning returns the matter to the litigation docket. Thank you.

*Best,  
Mary Angeles  
Paralegal Specialist*



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1300 Pennsylvania Ave, NW

Washington, DC 20004



## Houston, Robert

---

**From:** Chang-Vaughan, Ellen  
**Sent:** Wednesday, November 18, 2015 2:38 PM  
**To:** Houston, Robert  
**Subject:** RE: Draft Supplemental Environmental Project

Robert,

I have a few questions for Alb, but wanted to consolidate them. What questions do you have? I wish there was a description included in the proposal.

- 1) How long is the pipeline.
- 2) How much water will be piped.
- 3) What is the timeframe.

**From:** Stomp, John M. [mailto:JStomp@abcwua.org]  
**Sent:** Tuesday, November 17, 2015 2:52 PM  
**To:** Houston, Robert; Chang-Vaughan, Ellen; Leder, Charles S.; Kolberg, Charles W.; Kelly, Mark P.  
**Cc:** Sanchez, Mark S.; Stomp, John M.; Billings, Rick M.  
**Subject:** Draft Supplemental Environmental Project

Robert:

Attached is a proposed draft of the Water Authority's Supplemental Environmental Project description. We have also provided additional information in the form of figures, project elevations, site map of Valle del Oro, and google map images to support the project description. As we discussed, the format for the project description may need to be revised based on your comments/feedback. Please review and let us know if you need any additional information. Thanks. John





## Houston, Robert

---

**From:** Chang-Vaughan, Ellen  
**Sent:** Thursday, November 19, 2015 9:03 AM  
**To:** Kolberg, Charles W.; Stomp, John M.  
**Cc:** Houston, Robert  
**Subject:** Questions

Thank you for the SEP maps. We have some questions below. Can you let me know when we can receive a response to the questions? I recognize that next week is Thanksgiving and that people are starting to take off. However, I do have a draft CAFO prepared and am waiting to insert the SEP details. Once I receive the responses below, I can send the draft for your review.

- 1) How long is the pipeline?
- 2) How much water will be piped?
- 3) What is the timeframe?
- 4) After the Wildlife Refuge receives the water, where will the water be stored?
- 5) Will ABCWUA receive any monetary value from the Wildlife Refuge for the water?
- 6) What are the costs? Please provide a general breakdown.
- 7) Can you provide a general narrative of the project?

Also, I am going to send Mary Angeles an email giving her a status update today. Thanks.

Ellen Chang Vaughan  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 6  
Office of Regional Counsel (6RC-EW)  
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## Houston, Robert

---

**From:** Chang-Vaughan, Ellen  
**Sent:** Friday, November 20, 2015 7:04 AM  
**To:** Stomp, John M.; Kolberg, Charles W.  
**Cc:** Houston, Robert  
**Subject:** RE: Questions

John,

Thank you. This is very helpful. I will send a draft Consent Agreement and Final Order either today or Monday.

**From:** Stomp, John M. [mailto:JStomp@abcwua.org]  
**Sent:** Thursday, November 19, 2015 4:51 PM  
**To:** Chang-Vaughan, Ellen; Kolberg, Charles W.  
**Cc:** Houston, Robert  
**Subject:** RE: Questions

Ellen and Robert:

Here are the responses to your questions at this point. JMS

**From:** Chang-Vaughan, Ellen [mailto:Chang-Vaughan.Ellen@epa.gov]  
**Sent:** Thursday, November 19, 2015 8:03 AM  
**To:** Kolberg, Charles W. <ckolberg@abcwua.org>; Stomp, John M. <JStomp@abcwua.org>  
**Cc:** Houston, Robert <Houston.Robert@epa.gov>  
**Subject:** Questions

Thank you for the SEP maps. We have some questions below. Can you let me know when we can receive a response to the questions? I recognize that next week is Thanksgiving and that people are starting to take off. However, I do have a draft CAFO prepared and am waiting to insert the SEP details. Once I receive the responses below, I can send the draft for your review.

- 1) How long is the pipeline? 18,000 feet or about 3.4 miles
- 2) How much water will be piped? The capacity of the line will be about 1,500 gallons per minute. We don't know what the actual demand is at this point.
- 3) What is the timeframe? The project will be constructed in phases corresponding to Bernalillo County's roadway projects. We anticipate complete by the end of CY 2017.
- 4) After the Wildlife Refuge receives the water, where will the water be stored? The water doesn't have to be stored because it can be used directly for irrigation. They are planning on some wetlands which would provide storage.
- 5) Will ABCWUA receive any monetary value from the Wildlife Refuge for the water? Yes, the Wildlife Refuge will need to become a customer of the Water Authority and pay the ordinance rates for non-potable water.
- 6) What are the costs? Please provide a general breakdown. The estimated conceptual cost for the project is around \$ 450,000 to \$ 500,000. We will know more as we complete more engineering work.

7) Can you provide a general narrative of the project? See attached Supplemental Environmental Project Description.

Also, I am going to send Mary Angeles an email giving her a status update today. Thanks.

Ellen Chang Vaughan  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 6  
Office of Regional Counsel (6RC-EW)  
1445 Ross Ave.  
Dallas, TX 75202  
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## Houston, Robert

---

**From:** Chang-Vaughan, Ellen  
**Sent:** Monday, November 23, 2015 9:36 AM  
**To:** Cardenas, Adele; Houston, Robert  
**Cc:** Peters, Carol; Saunders, Jerry; Honker, William; Mohon, Mitty  
**Subject:** RE: ABCWUA

Thanks for the info, Adele. We were under the impression that the Refuge knew about this. This is news to us.

**From:** Cardenas, Adele  
**Sent:** Monday, November 23, 2015 9:32 AM  
**To:** Chang-Vaughan, Ellen; Houston, Robert  
**Cc:** Peters, Carol; Saunders, Jerry; Honker, William; Mohon, Mitty  
**Subject:** RE: ABCWUA

No worries, I just need to convey that it is in process but not yet decided. She as of now is against this since they know nothing about it and she will round up the troops who support the Refuge.

Thanks!  
Adele Cardenas Malott, P.E.

**From:** Chang-Vaughan, Ellen  
**Sent:** Monday, November 23, 2015 9:30 AM  
**To:** Cardenas, Adele; Houston, Robert  
**Cc:** Peters, Carol; Saunders, Jerry; Honker, William; Mohon, Mitty  
**Subject:** RE: ABCWUA

Hi Adele,  
Can you please hold off on sharing for now? We are still in negotiations and have not yet determined a SEP mitigation amount. I just don't want to hinder any progress just yet. Thanks.

**From:** Cardenas, Adele  
**Sent:** Monday, November 23, 2015 9:28 AM  
**To:** Houston, Robert  
**Cc:** Peters, Carol; Saunders, Jerry; Honker, William; Chang-Vaughan, Ellen; Mohon, Mitty  
**Subject:** RE: ABCWUA

Robert,  
Thank you for this information. Can I share it with my contact at FWS? I know you said it would be made public for input, cannot tell if it is out yet or not. I am not sure how it was linked to the Jet Fuel spill, probably an information session and this came up.

Thank you!  
Adele Cardenas Malott, P.E.

**From:** Houston, Robert  
**Sent:** Monday, November 23, 2015 9:04 AM  
**To:** Cardenas, Adele

**Cc:** Peters, Carol; Saunders, Jerry; Honker, William; Chang-Vaughan, Ellen; Mohon, Mitty  
**Subject:** RE: ABCWUA

Adele,

ABCWUA submitted a proposed Supplemental Environmental Project (SEP) last week for the design and construction of a non-potable reuse water line. The water line would begin at the Southside Water Reclamation Plant and end at the Valle del Oro National Wildlife Refuge. The SEP is voluntary, part of an enforcement action, and does not include a jet fuel line. Region 6 is currently gathering questions before the project is approved. Attached is the proposed SEP, let me know if you have additional questions.

Robert Houston  
Offshore Oil & Gas Enforcement Coordinator  
State of Oklahoma Enforcement Coordinator  
U.S. Environmental Protection Agency  
1445 Ross Avenue, Suite 1200 (6EN-WM)  
Dallas, Texas 75202-2733  
Office: (214) 665-8565  
eMail: [houston.robert@epa.gov](mailto:houston.robert@epa.gov)



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**From:** Peters, Carol  
**Sent:** Monday, November 23, 2015 8:39 AM  
**To:** Houston, Robert  
**Subject:** FW: ABCWUA

If I am remembering correctly, this is part of the SEP

Sent from my Windows Phone

---

**From:** Cardenas, Adele  
**Sent:** 11/21/2015 5:20 PM  
**To:** Saunders, Jerry  
**Cc:** Peters, Carol  
**Subject:** RE: ABCWUA

Thank you!

Adele Cardenas Malott, P.E.

Sent from my Windows Phone

---

**From:** Saunders, Jerry  
**Sent:** 11/21/2015 5:19 PM  
**To:** Cardenas, Adele  
**Cc:** Peters, Carol  
**Subject:** Re: ABCWUA

We will check on it. Thank you

Sent from my iPhone

On Nov 20, 2015, at 3:47 PM, Cardenas, Adele <[Cardenas.Adele@epa.gov](mailto:Cardenas.Adele@epa.gov)> wrote:

Jerry,

Can you tell me if the County of Bernalillo is required under an enforcement order to place a new line as noted by my FWS partner in email thread below?

Any assistance would be appreciated.

Thanks!

Adele Cardenas Malott, P.E.

Sent from my Windows Phone

---

**From:** [Honker, William](#)  
**Sent:** 11/20/2015 3:24 PM  
**To:** [Cardenas, Adele](#)  
**Cc:** [Garcia, David](#); [Saunders, Jerry](#)  
**Subject:** RE: ABCWUA

The jet fuel spill at Kirtland is being managed by NMED under RCRA. For the ABCWUA enforcement action, I'd check with Jerry Saunders – I'm not sure who is handling it. The reuse line Jennifer references may not be related to a compliance issue, however.

Bill

William K. Honker, P.E.  
Director, Water Quality Protection Division (6WQ)  
EPA Region 6  
Dallas, TX  
214-665-3187  
<http://www.epa.gov/region6/water/index.htm>

<image003.jpg> <image004.jpg>

---

**From:** Cardenas, Adele  
**Sent:** Friday, November 20, 2015 1:59 PM  
**To:** Honker, William  
**Subject:** FW: ABCWUA

Bill,

Who in Enforcement can I speak to regarding the jet fuel spill action and steps agreed upon w/County of Bernalillo?

Any thoughts would be appreciated.

Thanks!  
Adele Cardenas Malott, P.E.

Sent from my Windows Phone

**From:** Owen-White, Jennifer  
**Sent:** 11/17/2015 2:14 PM  
**To:** Cardenas, Adele  
**Subject:** ABCWUA

Adele,

Can you help me find info about what exactly the Albuquerque Bernalillo County Water Utility Authority is required to do for putting the reuse line along 2nd street? It would be nice for us to know what they are being required to do so we can know what to expect.

Thanks!

--

**Jennifer Owen-White**  
Refuge Manager - Valle de Oro National Wildlife Refuge  
7851 2nd street SW  
Albuquerque, NM 87105  
505-248-6667 office  
505-933-2708 cell

[Like Valle de Oro NWR on Facebook](#)



## Houston, Robert

---

**From:** Chang-Vaughan, Ellen  
**Sent:** Monday, November 23, 2015 9:39 AM  
**To:** Kolberg, Charles W.; Stomp, John M.  
**Cc:** Houston, Robert  
**Subject:** Conference call tomorrow?

Good morning,

I know schedules are tight this week, but would you be able to do a conference call either today from 2-3 CT or tomorrow pretty much all day? I think it would be good to discuss the SEP over the phone to get clarification on the details. Thanks.

Ellen Chang Vaughan  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 6  
Office of Regional Counsel (6RC-EW)  
1445 Ross Ave.  
Dallas, TX 75202  
chang-vaughan.ellen@epa.gov  
(214) 665-7328 (Office)  
(214) 665-3177 (Fax)

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## Houston, Robert

---

**From:** Chang-Vaughan, Ellen  
**Sent:** Monday, November 23, 2015 1:42 PM  
**To:** Stomp, John M.; Kolberg, Charles W.  
**Cc:** Houston, Robert  
**Subject:** RE: Conference call tomorrow?

It will just be Robert and me. You can use my conference line: 1-866-299-3188. Conference code: 214-665-8888. Thanks. I will send an invite.

**From:** Stomp, John M. [mailto:JStomp@abcwua.org]  
**Sent:** Monday, November 23, 2015 1:12 PM  
**To:** Kolberg, Charles W.  
**Cc:** Chang-Vaughan, Ellen; Houston, Robert  
**Subject:** Re: Conference call tomorrow?

Ellen:

Who needs to be on the conference call from your end because I can call you in the morning at 9 am MST. Does that work?

Sent from my iPhone

On Nov 23, 2015, at 9:01 AM, Kolberg, Charles W. <[ckolberg@abcwua.org](mailto:ckolberg@abcwua.org)> wrote:

Ellen,  
I am in hearings all this week. John would probably be able to handle your questions but I am not in the office to check his availability.

On Nov 23, 2015, at 8:38 AM, Chang-Vaughan, Ellen <[Chang-Vaughan.Ellen@epa.gov](mailto:Chang-Vaughan.Ellen@epa.gov)> wrote:

Good morning,  
I know schedules are tight this week, but would you be able to do a conference call either today from 2-3 CT or tomorrow pretty much all day? I think it would be good to discuss the SEP over the phone to get clarification on the details. Thanks.

Ellen Chang Vaughan  
Assistant Regional Counsel  
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1445 Ross Ave.  
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## Houston, Robert

---

**From:** Cardenas, Adele  
**Sent:** Monday, November 23, 2015 4:39 PM  
**To:** Chang-Vaughan, Ellen; Houston, Robert  
**Cc:** Peters, Carol; Saunders, Jerry; Honker, William; Mohon, Mitty  
**Subject:** RE: ABCWUA

Ellen,

I understand that the Refuge Manager was aware of the concept but due to the Federal Highways funding allocated to the County and FWS, they just want to make sure everyone is aware of their design and construction that Highways is doing under contract in Colorado office with the County Water Utility regarding their waterline proposed. I told them that I would assure that Enforcement was made aware of the 12-17M dollar project now in process with FHWA – Federal Land Access Program Grant awarded this last year.

Please let me know if you need anything else as you proceed forward in these negotiations.

Thank you!  
Adele Cardenas Malott, P.E.

**From:** Chang-Vaughan, Ellen  
**Sent:** Monday, November 23, 2015 9:36 AM  
**To:** Cardenas, Adele; Houston, Robert  
**Cc:** Peters, Carol; Saunders, Jerry; Honker, William; Mohon, Mitty  
**Subject:** RE: ABCWUA

Thanks for the info, Adele. We were under the impression that the Refuge knew about this. This is news to us.

**From:** Cardenas, Adele  
**Sent:** Monday, November 23, 2015 9:32 AM  
**To:** Chang-Vaughan, Ellen; Houston, Robert  
**Cc:** Peters, Carol; Saunders, Jerry; Honker, William; Mohon, Mitty  
**Subject:** RE: ABCWUA

No worries, I just need to convey that it is in process but not yet decided. She as of now is against this since they know nothing about it and she will round up the troops who support the Refuge.

Thanks!  
Adele Cardenas Malott, P.E.

**From:** Chang-Vaughan, Ellen  
**Sent:** Monday, November 23, 2015 9:30 AM  
**To:** Cardenas, Adele; Houston, Robert  
**Cc:** Peters, Carol; Saunders, Jerry; Honker, William; Mohon, Mitty  
**Subject:** RE: ABCWUA

Hi Adele,  
Can you please hold off on sharing for now? We are still in negotiations and have not yet determined a SEP mitigation amount. I just don't want to hinder any progress just yet. Thanks.

**From:** Cardenas, Adele  
**Sent:** Monday, November 23, 2015 9:28 AM  
**To:** Houston, Robert  
**Cc:** Peters, Carol; Saunders, Jerry; Honker, William; Chang-Vaughan, Ellen; Mohon, Mitty  
**Subject:** RE: ABCWUA

Robert,

Thank you for this information. Can I share it with my contact at FWS? I know you said it would be made public for input, cannot tell if it is out yet or not. I am not sure how it was linked to the Jet Fuel spill, probably an information session and this came up.

Thank you!

Adele Cardenas Malott, P.E.

**From:** Houston, Robert  
**Sent:** Monday, November 23, 2015 9:04 AM  
**To:** Cardenas, Adele  
**Cc:** Peters, Carol; Saunders, Jerry; Honker, William; Chang-Vaughan, Ellen; Mohon, Mitty  
**Subject:** RE: ABCWUA

Adele,

ABCWUA submitted a proposed Supplemental Environmental Project (SEP) last week for the design and construction of a non-potable reuse water line. The water line would begin at the Southside Water Reclamation Plant and end at the Valle del Oro National Wildlife Refuge. The SEP is voluntary, part of an enforcement action, and does not include a jet fuel line. Region 6 is currently gathering questions before the project is approved. Attached is the proposed SEP, let me know if you have additional questions.

Robert Houston  
Offshore Oil & Gas Enforcement Coordinator  
State of Oklahoma Enforcement Coordinator  
U.S. Environmental Protection Agency  
1445 Ross Avenue, Suite 1200 (6EN-WM)  
Dallas, Texas 75202-2733  
Office: (214) 665-8565  
eMail: [houston.robert@epa.gov](mailto:houston.robert@epa.gov)



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**From:** Peters, Carol  
**Sent:** Monday, November 23, 2015 8:39 AM  
**To:** Houston, Robert  
**Subject:** FW: ABCWUA

If I am remembering correctly, this is part of the SEP

Sent from my Windows Phone

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**From:** Cardenas, Adele  
**Sent:** 11/21/2015 5:20 PM  
**To:** Saunders, Jerry  
**Cc:** Peters, Carol  
**Subject:** RE: ABCWUA

Thank you!

Adele Cardenas Malott, P.E.

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**Sent:** 11/21/2015 5:19 PM  
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**Cc:** Peters, Carol  
**Subject:** Re: ABCWUA

We will check on it. Thank you

Sent from my iPhone

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Jerry,  
Can you tell me if the County of Bernalillo is required under an enforcement order to place a new line as noted by my FWS partner in email thread below?

Any assistance would be appreciated.

Thanks!  
Adele Cardenas Malott, P.E.

Sent from my Windows Phone

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**From:** Honker, William  
**Sent:** 11/20/2015 3:24 PM  
**To:** Cardenas, Adele  
**Cc:** Garcia, David; Saunders, Jerry  
**Subject:** RE: ABCWUA

The jet fuel spill at Kirtland is being managed by NMED under RCRA. For the ABCWUA enforcement action, I'd check with Jerry Saunders – I'm not sure who is handling it. The reuse line Jennifer references may not be related to a compliance issue, however.

Bill

William K. Honker, P.E.  
Director, Water Quality Protection Division (6WQ)  
EPA Region 6  
Dallas, TX  
214-665-3187  
<http://www.epa.gov/region6/water/index.htm>

<image003.jpg> <image004.jpg>

**From:** Cardenas, Adele  
**Sent:** Friday, November 20, 2015 1:59 PM  
**To:** Honker, William  
**Subject:** FW: ABCWUA

Bill,  
Who in Enforcement can I speak to regarding the jet fuel spill action and steps agreed upon w/County of Bernalillo?

Any thoughts would be appreciated.

Thanks!  
Adele Cardenas Malott, P.E.

Sent from my Windows Phone

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**From:** Owen-White, Jennifer  
**Sent:** 11/17/2015 2:14 PM  
**To:** Cardenas, Adele  
**Subject:** ABCWUA

Adele,

Can you help me find info about what exactly the Albuquerque Bernalillo County Water Utility Authority is required to do for putting the reuse line along 2nd street? It would be nice for us to know what they are being required to do so we can know what to expect.

Thanks!

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**Jennifer Owen-White**  
Refuge Manager - Valle de Oro National Wildlife Refuge  
7851 2nd street SW  
Albuquerque, NM 87105  
505-248-6667 office  
505-933-2708 cell

[Like Valle de Oro NWR on Facebook](#)







## Houston, Robert

---

**From:** Chang-Vaughan, Ellen  
**Sent:** Tuesday, December 01, 2015 11:28 AM  
**To:** Stomp, John M.; Houston, Robert  
**Cc:** Peters, Carol; Leder, Charles S.; Kelly, Mark P.; Kolberg, Charles W.  
**Subject:** RE: Phone Conversation on November 24, 2015 regarding Water Authority's Proposed SEP

Please call this number .214-665-3145.

---

**From:** Stomp, John M. [mailto:JStomp@abcwua.org]  
**Sent:** Tuesday, December 01, 2015 11:21 AM  
**To:** Chang-Vaughan, Ellen; Houston, Robert  
**Cc:** Peters, Carol; Leder, Charles S.; Kelly, Mark P.; Kolberg, Charles W.  
**Subject:** RE: Phone Conversation on November 24, 2015 regarding Water Authority's Proposed SEP

Ellen:

What number can we call you at 10:30 am MT? JMS

---

**From:** Chang-Vaughan, Ellen [mailto:Chang-Vaughan.Ellen@epa.gov]  
**Sent:** Tuesday, December 01, 2015 6:09 AM  
**To:** Stomp, John M. <JStomp@abcwua.org>; Houston, Robert <Houston.Robert@epa.gov>  
**Cc:** Peters, Carol <Peters.Carol@epa.gov>; Leder, Charles S. <cleder@abcwua.org>; Kelly, Mark P. <mkelly@abcwua.org>; Kolberg, Charles W. <ckolberg@abcwua.org>  
**Subject:** RE: Phone Conversation on November 24, 2015 regarding Water Authority's Proposed SEP

Sorry about forgetting the attachment. I am available today after 11:30 CT/10:30 MT.

<http://www2.epa.gov/sites/production/files/2015-04/documents/sepupdatedpolicy15.pdf>

---

**From:** Stomp, John M. [mailto:JStomp@abcwua.org]  
**Sent:** Monday, November 30, 2015 4:41 PM  
**To:** Chang-Vaughan, Ellen; Houston, Robert  
**Cc:** Peters, Carol; Leder, Charles S.; Kelly, Mark P.; Kolberg, Charles W.  
**Subject:** RE: Phone Conversation on November 24, 2015 regarding Water Authority's Proposed SEP

Ellen:

After reading the supplemental SEP guidelines, here are our comments:

1. There are no federal funds associated with the extension of the line from the Southside Water Reclamation Plant to the Valle del Oro Refuge. The non-potable line would be available to take service just like the potable water line that exists adjacent to the property now. The Water Authority SEP project is the extension of the non-potable water line which creates this as a source of supply for the refuge property, 2<sup>nd</sup> Street corridor, Mountain View Elementary school and many other adjacent properties.

2. The Water Authority is a governmental organization and is prohibited as a water and wastewater utility from making a profit. The non-potable rates are for paying for operating and maintaining the system.

Charles Kolberg suggested that we call you tomorrow to discuss and get these issues resolved. Do you have time for a call in the morning? JMS

**From:** Chang-Vaughan, Ellen [mailto:Chang-Vaughan.Ellen@epa.gov]

**Sent:** Monday, November 30, 2015 1:50 PM

**To:** Stomp, John M. <JStomp@abcwua.org>; Houston, Robert <Houston.Robert@epa.gov>

**Cc:** Peters, Carol <Peters.Carol@epa.gov>; Leder, Charles S. <clleder@abcwua.org>; Kelly, Mark P.

<mkelly@abcwua.org>; Kolberg, Charles W. <ckolberg@abcwua.org>

**Subject:** RE: Phone Conversation on November 24, 2015 regarding Water Authority's Proposed SEP

John,

Thanks for your responses below.

I have attached a link to the updated SEP policy which should help with your response on: 1) federal funding and 2) profits.

I like the SEP concept, but have some concerns.

- 1) I checked out the Refuge's website and it looks like the US Fish and Wildlife Service owns it. I am concerned since the Refuge is owned and operated by the federal government and there are issues about federal funding and appropriations. When the SEP was initially presented to us at the meeting to Dallas, Robert and I thought this was a privately owned wildlife refuge. Please look at page 10, Section IV(B)(2)(b) and Section IV(C)(1) of the SEP policy which discusses federal appropriations.
- 2) Furthermore, I am also concerned about the Water Utility earning profits. Please look at page 17, Section VI(H).

Do you have other SEPs in mind such as monitoring/sampling for the Tribe?

Thanks.

**From:** Stomp, John M. [mailto:JStomp@abcwua.org]

**Sent:** Monday, November 30, 2015 1:52 PM

**To:** Houston, Robert

**Cc:** Peters, Carol; Chang-Vaughan, Ellen; Leder, Charles S.; Kelly, Mark P.; Kolberg, Charles W.; Stomp, John M.

**Subject:** Phone Conversation on November 24, 2015 regarding Water Authority's Proposed SEP

Robert:

Thank you for the phone call on November 24, 2015. I wanted to document the questions and responses provided in the phone conversation.

#### Questions and Responses:

1. Who are the proposed customers and do we have agreements with them?

Response:

We have identified two customers – Bernalillo County and the Valle del Oro Refuge as the customers for the pipeline. The Mountain View Elementary School (Albuquerque Public School) and Mountain View Neighborhood Association are future potential customers that we would need to follow up on if this project is approved as our SEP.

2. Are the two customers – namely Valle del Oro – going to have to pay for the water?

Response:

Yes, both entities will need to become customers of the Water Authority and will pay the rates established in the Rate Ordinance. The rates will be based on meter size and actual monthly usage.

3. Do we have an agreement with Valle del Oro?

Response:

No, we have not pursued an agreement with them until this SEP is approved. We would need the same from Bernalillo County.

4. What is the timeline for the agreements?

Response:

We would pursue the agreements with Valle del Oro and Bernalillo County when the SEP is approved. If they file an application with the Water Authority for non-potable water service, then there may be no need for a separate agreement. If a separate agreement is necessary for this SEP, then that may take many months depending on governmental approvals.

Following your questions, I looked at the SEP policy and CWA Settlement Penalty Policy regarding the two items you discussed which are as follows:

- A. Page 17, Paragraph 6.g – is this process going to interfere with federal funding or federal appropriations.
- B. Page 17, Paragraph 6.h – is the Water Authority going to make a profit on selling this water?

We agreed that we would provide written statements addressing both of these. However, when I went back to the policy document you provided, I could not find a page 17 nor anything related to paragraph 6. Can you resend me this section as I don't appear to have it? I want to make sure that our written responses follow the same language.

You stated that we would need to get something done by December 20, 2015 or another extension would be required from the Hearing Officer and that you felt another extension would be difficult to do. We will provide the written statement identified in A and B above, but we are not sure what else is needed to finalize a settlement prior to the December 20, 2015 deadline.

I tried to summarize our conversation, but may have missed something or clarification may be necessary. Please let me know if that is the case. Thanks. JMS

**From:** Houston, Robert [<mailto:Houston.Robert@epa.gov>]

**Sent:** Thursday, September 17, 2015 1:58 PM

**To:** Stomp, John M. <[JStomp@abcwua.org](mailto:JStomp@abcwua.org)>

**Cc:** Peters, Carol <[Peters.Carol@epa.gov](mailto:Peters.Carol@epa.gov)>; Chang-Vaughan, Ellen <[Chang-Vaughan.Ellen@epa.gov](mailto:Chang-Vaughan.Ellen@epa.gov)>; Leder, Charles S. <[clleder@abcwua.org](mailto:clleder@abcwua.org)>; Kelly, Mark P. <[mkelly@abcwua.org](mailto:mkelly@abcwua.org)>; Kolberg, Charles W. <[ckolberg@abcwua.org](mailto:ckolberg@abcwua.org)>

**Subject:** CWA-06-2015-1777 meeting

All,

Thank you for attending today's meeting. Attached is the sign-in sheet, CWA Settlement Penalty Policy and SEP Policy.

Robert Houston

Offshore Oil & Gas Enforcement Coordinator

State of Oklahoma Enforcement Coordinator

U.S. Environmental Protection Agency

1445 Ross Avenue, Suite 1200 (6EN-WM)

Dallas, Texas 75202-2733

Office: (214) 665-8565

eMail: [houston.robert@epa.gov](mailto:houston.robert@epa.gov)



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## Houston, Robert

---

**From:** Cavalier, Beth  
**Sent:** Tuesday, December 01, 2015 1:01 PM  
**To:** Chang-Vaughan, Ellen  
**Cc:** Talbot, Kristine; Peters, Carol; Houston, Robert; Cavalier, Beth  
**Subject:** RE: SEP proposal

Hi Ellen, This is a very interesting proposal!

Can you tell me what the underlying violations are? Was this refuge impacted/potentially impacted by the violations? We need to ensure that there is adequate nexus.

I don't think there should be a concern about profits, although you may want to see if the Water Authority can provide more information on how the fees it would charge will be used, just to make sure.

Also, probably no augmentation concern either, as I believe the FWS has gift authority – but its good that you are checking with them to make sure that they can accept this type of gift.

If you want to chat, let me know – we can set up a call. Thanks!

Beth

Beth Cavalier  
Program Analyst  
OECA/OCE/SLPD  
(202) 564-3271

**From:** Chang-Vaughan, Ellen  
**Sent:** Tuesday, December 01, 2015 1:45 PM  
**To:** Cavalier, Beth <Cavalier.Beth@epa.gov>  
**Cc:** Talbot, Kristine <Talbot.Kristine@epa.gov>; Peters, Carol <Peters.Carol@epa.gov>; Houston, Robert <Houston.Robert@epa.gov>  
**Subject:** SEP proposal

Hi Beth,

Efren Ordonez, my R6 ORC co-worker, recommended that I call you to discuss a SEP proposal. The Albuquerque Bernalillo County Water Utility Authority is proposing to construct a 3.4 mile non-potable reuse water line. This non-potable reuse line would be used by two entities.

- 1) The Valle del Oro National Wildlife Refuge which is owned and operated by the Fish and Wildlife Service is one of the first urban Refuges in the SW. FWS intends to create two lagoons with wetlands for wildlife use. The Water Authority will construct this pipeline as its SEP to supply water to feed the yet to be constructed lagoons/wetlands. The Authority will charge the Refuge, but has assured us that they do not

profit from the charges. As a governmental entity, the Authority is prohibited from making a profit and the rates charged are used for operation and maintenance.

- 2) Bernalillo County is the other entity that will use the reuse line. The County will be re-routing/re-constructing roads and direct them to this Refuge and intends to also develop alongside a bike/walking trail with landscaping. The County will use the reuse water line for irrigation of the landscaping and would like to take benefit of the construction timing by tearing up the roads once.

In theory, it sounds like a good SEP, but there are some issues.

- 3) With the FWS being involved, is there an appropriations concern? The Authority will be the sole entity constructing and supplying the reuse water line. I intend to talk to FWS just to make sure.
- 4) Is there a profits concern?

In case we cannot approve the SEP for the Refuge, would we be able to give the Authority SEP credit for the construction of the water line for the irrigation of the plants along the bike lane?

I appreciate you looking into this. I am on travel tomorrow, but feel free to call Kristine Talbot at 214-665-8356. Thank you very much.

Ellen Chang Vaughan  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 6  
Office of Regional Counsel (6RC-EW)  
1445 Ross Ave.  
Dallas, TX 75202  
[chang-vaughan.ellen@epa.gov](mailto:chang-vaughan.ellen@epa.gov)  
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## Houston, Robert

---

**From:** Chang-Vaughan, Ellen  
**Sent:** Tuesday, December 01, 2015 1:17 PM  
**To:** Stomp, John M.; Houston, Robert  
**Cc:** Peters, Carol; Kolberg, Charles W.  
**Subject:** RE: Phone Conversation on November 24, 2015 regarding Water Authority's Proposed SEP

John and Charles,

Thanks for talking to us this morning. I was on Google Maps and it looks like the Refuge is about 2000 feet away from the Rio Grande. Is it within sight of the Refuge – just wanted to make sure.

Also, how far away is the 6 million gallon discharge site away from the Refuge? Is it within the same watershed?

**From:** Stomp, John M. [mailto:JStomp@abcwua.org]  
**Sent:** Monday, November 30, 2015 4:41 PM  
**To:** Chang-Vaughan, Ellen; Houston, Robert  
**Cc:** Peters, Carol; Leder, Charles S.; Kelly, Mark P.; Kolberg, Charles W.  
**Subject:** RE: Phone Conversation on November 24, 2015 regarding Water Authority's Proposed SEP

Ellen:

After reading the supplemental SEP guidelines, here are our comments:

1. There are no federal funds associated with the extension of the line from the Southside Water Reclamation Plant to the Valle del Oro Refuge. The non-potable line would be available to take service just like the potable water line that exists adjacent to the property now. The Water Authority SEP project is the extension of the non-potable water line which creates this as a source of supply for the refuge property, 2<sup>nd</sup> Street corridor, Mountain View Elementary school and many other adjacent properties.
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**Cc:** Peters, Carol <Peters.Carol@epa.gov>; Leder, Charles S. <clleder@abcwua.org>; Kelly, Mark P. <mkelly@abcwua.org>; Kolberg, Charles W. <ckolberg@abcwua.org>  
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I have attached a link to the updated SEP policy which should help with your response on: 1) federal funding and 2) profits.

I like the SEP concept, but have some concerns.

- 1) I checked out the Refuge's website and it looks like the US Fish and Wildlife Service owns it. I am concerned since the Refuge is owned and operated by the federal government and there are issues about federal funding and appropriations. When the SEP was initially presented to us at the meeting to Dallas, Robert and I thought this was a privately owned wildlife refuge. Please look at page 10, Section IV(B)(2)(b) and Section IV(C)(1) of the SEP policy which discusses federal appropriations.
- 2) Furthermore, I am also concerned about the Water Utility earning profits. Please look at page 17, Section VI(H).

Do you have other SEPs in mind such as monitoring/sampling for the Tribe?

Thanks.

**From:** Stomp, John M. [<mailto:JStomp@abcwua.org>]

**Sent:** Monday, November 30, 2015 1:52 PM

**To:** Houston, Robert

**Cc:** Peters, Carol; Chang-Vaughan, Ellen; Leder, Charles S.; Kelly, Mark P.; Kolberg, Charles W.; Stomp, John M.

**Subject:** Phone Conversation on November 24, 2015 regarding Water Authority's Proposed SEP

Robert:

Thank you for the phone call on November 24, 2015. I wanted to document the questions and responses provided in the phone conversation.

**Questions and Responses:**

1. Who are the proposed customers and do we have agreements with them?

Response:

We have identified two customers – Bernalillo County and the Valle del Oro Refuge as the customers for the pipeline. The Mountain View Elementary School (Albuquerque Public School) and Mountain View Neighborhood Association are future potential customers that we would need to follow up on if this project is approved as our SEP.

2. Are the two customers – namely Valle del Oro – going to have to pay for the water?

Response:

Yes, both entities will need to become customers of the Water Authority and will pay the rates established in the Rate Ordinance. The rates will be based on meter size and actual monthly usage.

3. Do we have an agreement with Valle del Oro?

Response:

No, we have not pursued an agreement with them until this SEP is approved. We would need the same from Bernalillo County.

4. What is the timeline for the agreements?

Response:

We would pursue the agreements with Valle del Oro and Bernalillo County when the SEP is approved. If they file an application with the Water Authority for non-potable water service, then there may be no need for a separate agreement. If a separate agreement is necessary for this SEP, then that may take many months depending on governmental approvals.

Following your questions, I looked at the SEP policy and CWA Settlement Penalty Policy regarding the two items you discussed which are as follows:

- A. Page 17, Paragraph 6.g – is this process going to interfere with federal funding or federal appropriations.
- B. Page 17, Paragraph 6.h – is the Water Authority going to make a profit on selling this water?

We agreed that we would provide written statements addressing both of these. However, when I went back to the policy document you provided, I could not find a page 17 nor anything related to paragraph 6. Can you resend me this section as I don't appear to have it? I want to make sure that our written responses follow the same language.

You stated that we would need to get something done by December 20, 2015 or another extension would be required from the Hearing Officer and that you felt another extension would be difficult to do. We will provide the written statement identified in A and B above, but we are not sure what else is needed to finalize a settlement prior to the December 20, 2015 deadline.

I tried to summarize our conversation, but may have missed something or clarification may be necessary. Please let me know if that is the case. Thanks. JMS

---

**From:** Houston, Robert [<mailto:Houston.Robert@epa.gov>]

**Sent:** Thursday, September 17, 2015 1:58 PM

**To:** Stomp, John M. <[JStomp@abcwua.org](mailto:JStomp@abcwua.org)>

**Cc:** Peters, Carol <[Peters.Carol@epa.gov](mailto:Peters.Carol@epa.gov)>; Chang-Vaughan, Ellen <[Chang-Vaughan.Ellen@epa.gov](mailto:Chang-Vaughan.Ellen@epa.gov)>; Leder, Charles S. <[cleder@abcwua.org](mailto:cleder@abcwua.org)>; Kelly, Mark P. <[mkelly@abcwua.org](mailto:mkelly@abcwua.org)>; Kolberg, Charles W. <[ckolberg@abcwua.org](mailto:ckolberg@abcwua.org)>

**Subject:** CWA-06-2015-1777 meeting

All,

Thank you for attending today's meeting. Attached is the sign-in sheet, CWA Settlement Penalty Policy and SEP Policy.

Robert Houston  
Offshore Oil & Gas Enforcement Coordinator  
State of Oklahoma Enforcement Coordinator  
U.S. Environmental Protection Agency  
1445 Ross Avenue, Suite 1200 (6EN-WM)

Dallas, Texas 75202-2733  
Office: (214) 665-8565  
eMail: [houston.robert@epa.gov](mailto:houston.robert@epa.gov)



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## Houston, Robert

---

**From:** Kolberg, Charles W. <ckolberg@abcwua.org>  
**Sent:** Tuesday, December 01, 2015 1:39 PM  
**To:** Chang-Vaughan, Ellen; Stomp, John M.; Houston, Robert  
**Cc:** Peters, Carol  
**Subject:** Water Authority's Proposed SEP  
**Attachments:** Valle de Oro campus map.pdf

Ellen,  
Correct, the Valle de Oro refuge site is on the East side of the river between 2<sup>nd</sup> St. and the Rio Grande. On Satellite view, Google has a label for it and you can see the group of farm buildings on 2<sup>nd</sup> St. with fields and a large barn. Our sewage plant is about 3 or 4 miles north of the refuge.  
The drain into which the partially treated sewage was released is labeled the Albuquerque Riverside Drain and runs in between the forested river front and the Rio Grande. The drain runs north to south and after it passes our plant it continues south to pass just west of the refuge fields. I have attached the refuge's proposed campus map, which gives a pretty good picture of their current vision of the visitor's center area along 2<sup>nd</sup> St.

---

**From:** Chang-Vaughan, Ellen [mailto:Chang-Vaughan.Ellen@epa.gov]  
**Sent:** Tuesday, December 01, 2015 12:17 PM  
**To:** Stomp, John M.; Houston, Robert  
**Cc:** Peters, Carol; Kolberg, Charles W.  
**Subject:** RE: Phone Conversation on November 24, 2015 regarding Water Authority's Proposed SEP

John and Charles,

Thanks for talking to us this morning. I was on Google Maps and it looks like the Refuge is about 2000 feet away from the Rio Grande. Is it within sight of the Refuge – just wanted to make sure.

Also, how far away is the 6 million gallon discharge site away from the Refuge? Is it within the same watershed?

**From:** Stomp, John M. [mailto:JStomp@abcwua.org]  
**Sent:** Monday, November 30, 2015 4:41 PM  
**To:** Chang-Vaughan, Ellen; Houston, Robert  
**Cc:** Peters, Carol; Leder, Charles S.; Kelly, Mark P.; Kolberg, Charles W.  
**Subject:** RE: Phone Conversation on November 24, 2015 regarding Water Authority's Proposed SEP

Ellen:

After reading the supplemental SEP guidelines, here are our comments:

1. There are no federal funds associated with the extension of the line from the Southside Water Reclamation Plant to the Valle del Oro Refuge. The non-potable line would be available to take service just like the potable water line that exists adjacent to the property now. The Water Authority SEP project is the extension of the non-potable water line which creates this as a source of supply for the refuge property, 2<sup>nd</sup> Street corridor, Mountain View Elementary school and many other adjacent properties.
2. The Water Authority is a governmental organization and is prohibited as a water and wastewater utility from making a profit. The non-potable rates are for paying for operating and maintaining the system.

Charles Kolberg suggested that we call you tomorrow to discuss and get these issues resolved. Do you have time for a call in the morning? JMS

**From:** Chang-Vaughan, Ellen [mailto:Chang-Vaughan.Ellen@epa.gov]

**Sent:** Monday, November 30, 2015 1:50 PM

**To:** Stomp, John M. <JStomp@abcwua.org>; Houston, Robert <Houston.Robert@epa.gov>

**Cc:** Peters, Carol <Peters.Carol@epa.gov>; Leder, Charles S. <cleder@abcwua.org>; Kelly, Mark P. <mkelly@abcwua.org>; Kolberg, Charles W. <ckolberg@abcwua.org>

**Subject:** RE: Phone Conversation on November 24, 2015 regarding Water Authority's Proposed SEP

John,

Thanks for your responses below.

I have attached a link to the updated SEP policy which should help with your response on: 1) federal funding and 2) profits.

I like the SEP concept, but have some concerns.

- 1) I checked out the Refuge's website and it looks like the US Fish and Wildlife Service owns it. I am concerned since the Refuge is owned and operated by the federal government and there are issues about federal funding and appropriations. When the SEP was initially presented to us at the meeting to Dallas, Robert and I thought this was a privately owned wildlife refuge. Please look at page 10, Section IV(B)(2)(b) and Section IV(C)(1) of the SEP policy which discusses federal appropriations.
- 2) Furthermore, I am also concerned about the Water Utility earning profits. Please look at page 17, Section VI(H).

Do you have other SEPs in mind such as monitoring/sampling for the Tribe?

Thanks.

**From:** Stomp, John M. [mailto:JStomp@abcwua.org]

**Sent:** Monday, November 30, 2015 1:52 PM

**To:** Houston, Robert

**Cc:** Peters, Carol; Chang-Vaughan, Ellen; Leder, Charles S.; Kelly, Mark P.; Kolberg, Charles W.; Stomp, John M.

**Subject:** Phone Conversation on November 24, 2015 regarding Water Authority's Proposed SEP

Robert:

Thank you for the phone call on November 24, 2015. I wanted to document the questions and responses provided in the phone conversation.

**Questions and Responses:**

1. Who are the proposed customers and do we have agreements with them?

Response:

We have identified two customers – Bernalillo County and the Valle del Oro Refuge as the customers for the pipeline. The Mountain View Elementary School (Albuquerque Public School) and Mountain View Neighborhood Association are future potential customers that we would need to follow up on if this project is approved as our SEP.

2. Are the two customers – namely Valle del Oro – going to have to pay for the water?

Response:

Yes, both entities will need to become customers of the Water Authority and will pay the rates established in the Rate Ordinance. The rates will be based on meter size and actual monthly usage.

3. Do we have an agreement with Valle del Oro?

Response:

No, we have not pursued an agreement with them until this SEP is approved. We would need the same from Bernalillo County.

4. What is the timeline for the agreements?

Response:

We would pursue the agreements with Valle del Oro and Bernalillo County when the SEP is approved. If they file an application with the Water Authority for non-potable water service, then there may be no need for a separate agreement. If a separate agreement is necessary for this SEP, then that may take many months depending on governmental approvals.

Following your questions, I looked at the SEP policy and CWA Settlement Penalty Policy regarding the two items you discussed which are as follows:

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- B. Page 17, Paragraph 6.h – is the Water Authority going to make a profit on selling this water?

We agreed that we would provide written statements addressing both of these. However, when I went back to the policy document you provided, I could not find a page 17 nor anything related to paragraph 6. Can you resend me this section as I don't appear to have it? I want to make sure that our written responses follow the same language.

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I tried to summarize our conversation, but may have missed something or clarification may be necessary. Please let me know if that is the case. Thanks. JMS

**From:** Houston, Robert [<mailto:Houston.Robert@epa.gov>]

**Sent:** Thursday, September 17, 2015 1:58 PM

**To:** Stomp, John M. <[JStomp@abcwua.org](mailto:JStomp@abcwua.org)>

**Cc:** Peters, Carol <[Peters.Carol@epa.gov](mailto:Peters.Carol@epa.gov)>; Chang-Vaughan, Ellen <[Chang-Vaughan.Ellen@epa.gov](mailto:Chang-Vaughan.Ellen@epa.gov)>; Leder, Charles S. <[cleder@abcwua.org](mailto:cleder@abcwua.org)>; Kelly, Mark P. <[mkelly@abcwua.org](mailto:mkelly@abcwua.org)>; Kolberg, Charles W. <[ckolberg@abcwua.org](mailto:ckolberg@abcwua.org)>

**Subject:** CWA-06-2015-1777 meeting

All,

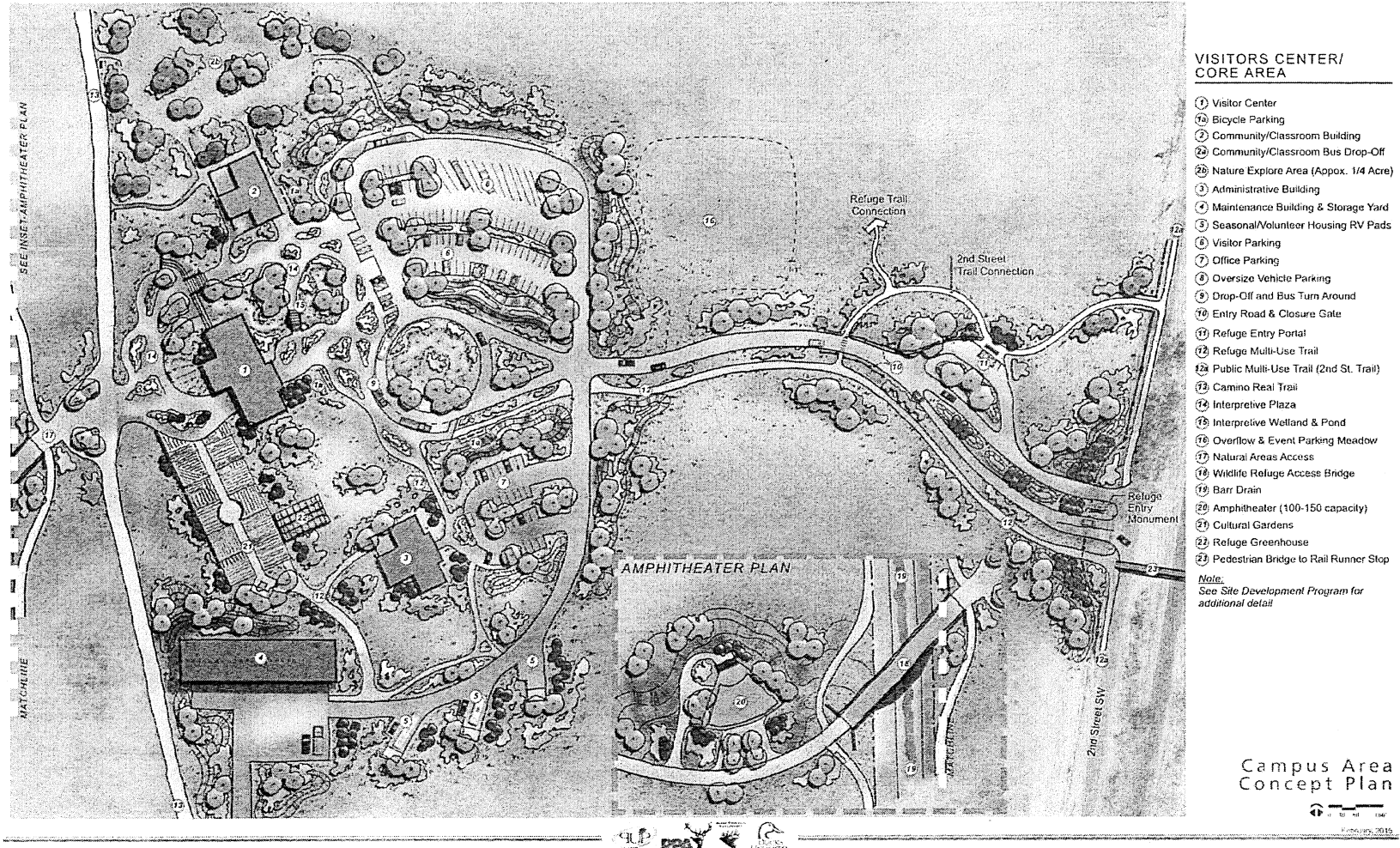
Thank you for attending today's meeting. Attached is the sign-in sheet, CWA Settlement Penalty Policy and SEP Policy.

Robert Houston  
Offshore Oil & Gas Enforcement Coordinator  
State of Oklahoma Enforcement Coordinator  
U.S. Environmental Protection Agency  
1445 Ross Avenue, Suite 1200 (6EN-WM)  
Dallas, Texas 75202-2733  
Office: (214) 665-8565  
eMail: [houston.robert@epa.gov](mailto:houston.robert@epa.gov)



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## Houston, Robert

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**From:** Cavalier, Beth  
**Sent:** Wednesday, December 02, 2015 7:27 AM  
**To:** Chang-Vaughan, Ellen  
**Cc:** Talbot, Kristine; Peters, Carol; Houston, Robert  
**Subject:** Re: SEP proposal

Thanks Ellen, sounds like there is a great nexus!

Beth Cavalier  
Analyst  
Special Litigation and Projects Division  
Office of Civil Enforcement  
(202) 564-3271

---

**From:** Chang-Vaughan, Ellen  
**Sent:** Tuesday, December 1, 2015 3:43 PM  
**To:** Cavalier, Beth  
**Cc:** Talbot, Kristine; Peters, Carol; Houston, Robert  
**Subject:** RE: SEP proposal

Hi Beth,

Thanks for your quick response! The Authority had a bypass and discharged 6 million gallons of primary clarifier effluent into the Albuquerque Riverside Drain and then into Rio Grande. The Albuquerque Riverside Drain stops at the northern boundary of the Refuge and the Rio Grande is about 2000 feet away (within eyesight) due west from the Refuge. They are within the same watershed, so the bypass could have been adversely impacted by the discharge especially with the large volume of effluent. Thanks!

---

**From:** Cavalier, Beth  
**Sent:** Tuesday, December 01, 2015 1:01 PM  
**To:** Chang-Vaughan, Ellen  
**Cc:** Talbot, Kristine; Peters, Carol; Houston, Robert; Cavalier, Beth  
**Subject:** RE: SEP proposal

Hi Ellen, This is a very interesting proposal!

Can you tell me what the underlying violations are? Was this refuge impacted/potentially impacted by the violations? We need to ensure that there is adequate nexus.

I don't think there should be a concern about profits, although you may want to see if the Water Authority can provide more information on how the fees it would charge will be used, just to make sure.

Also, probably no augmentation concern either, as I believe the FWS has gift authority – but its good that you are checking with them to make sure that they can accept this type of gift.

If you want to chat, let me know – we can set up a call. Thanks!

Beth

Beth Cavalier  
Program Analyst  
OECA/OCE/SLPD  
(202) 564-3271

---

**From:** Chang-Vaughan, Ellen  
**Sent:** Tuesday, December 01, 2015 1:45 PM  
**To:** Cavalier, Beth <Cavalier.Beth@epa.gov>  
**Cc:** Talbot, Kristine <Talbot.Kristine@epa.gov>; Peters, Carol <Peters.Carol@epa.gov>; Houston, Robert <Houston.Robert@epa.gov>  
**Subject:** SEP proposal

Hi Beth,

Efren Ordonez, my R6 ORC co-worker, recommended that I call you to discuss a SEP proposal. The Albuquerque Bernalillo County Water Utility Authority is proposing to construct a 3.4 mile non-potable reuse water line. This non-potable reuse line would be used by two entities.

- 1) The Valle del Oro National Wildlife Refuge which is owned and operated by the Fish and Wildlife Service is one of the first urban Refuges in the SW. FWS intends to create two lagoons with wetlands for wildlife use. The Water Authority will construct this pipeline as its SEP to supply water to feed the yet to be constructed lagoons/wetlands. The Authority will charge the Refuge, but has assured us that they do not profit from the charges. As a governmental entity, the Authority is prohibited from making a profit and the rates charged are used for operation and maintenance.
- 2) Bernalillo County is the other entity that will use the reuse line. The County will be re-routing/re-constructing roads and direct them to this Refuge and intends to also develop alongside a bike/walking trail with landscaping. The County will use the reuse water line for irrigation of the landscaping and would like to take benefit of the construction timing by tearing up the roads once.

In theory, it sounds like a good SEP, but there are some issues.

- 3) With the FWS being involved, is there an appropriations concern? The Authority will be the sole entity constructing and supplying the reuse water line. I intend to talk to FWS just to make sure.
- 4) Is there a profits concern?

In case we cannot approve the SEP for the Refuge, would we be able to give the Authority SEP credit for the construction of the water line for the irrigation of the plants along the bike lane?

I appreciate you looking into this. I am on travel tomorrow, but feel free to call Kristine Talbot at 214-665-8356. Thank you very much.

Ellen Chang Vaughan  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 6  
Office of Regional Counsel (6RC-EW)

1445 Ross Ave.  
Dallas, TX 75202  
[chang-vaughan.ellen@epa.gov](mailto:chang-vaughan.ellen@epa.gov)  
(214) 665-7328 (Office)  
(214) 665-3177 (Fax)

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## Houston, Robert

---

**From:** Cardenas, Adele  
**Sent:** Friday, December 04, 2015 2:28 PM  
**To:** Chang-Vaughan, Ellen; Houston, Robert  
**Cc:** Peters, Carol; Saunders, Jerry; Honker, William; Mohon, Mitty; Garcia, David; Talbot, Kristine  
**Subject:** RE: ABCWUA

Ellen,  
Thank you! I just wanted to assure that the new roadway constructed does not get deconstructed for this SEP project after all the planning and public meetings involved.

Let me know when we can share.

Appreciate your assistance.

Thanks!  
Adele Cardenas Malott, P.E.

Sent from my Windows Phone

---

**From:** Chang-Vaughan, Ellen  
**Sent:** 12/4/2015 1:49 PM  
**To:** Cardenas, Adele; Houston, Robert  
**Cc:** Peters, Carol; Saunders, Jerry; Honker, William; Mohon, Mitty; Garcia, David; Talbot, Kristine  
**Subject:** RE: ABCWUA

Hi Adele,

We have received documentation from Albuquerque Water Authority and also talked to them on the phone about the proposed SEP. It sounds like it is a 3.4 mile non-potable water pipeline with dual use. It would be used by the Refuge to supply water to two yet-to-be constructed lagoons and wetlands. It would also be used by the County for irrigation of the landscaping along a bike path which leads into the Refuge. We understand that the roads are to be reconstructed along with the bike path and this would be the perfect time to install the proposed water pipeline.

In concept, we like the SEP, but did have appropriation concerns when we learned that the FWS owns/operates that Refuge. To be on the safe side, I checked with the HQs expert on SEPs, and was told that the FWS can accept gifts. The Water Authority will be the sole entity constructing and supplying the reuse water line, and the Refuge and the County will be charged regular customer fees for its non-potable use. However, the Water Authority does not make a profit from the rate charges. We also looked into whether there was a nexus with the violations caused by the Water Authority and the Refuge and it is covered since the discharges fall within the same watershed.

We are working on getting a draft Consent Agreement and Final Order to the Water Authority with language of its proposed SEP. We hope to have it sent to the Water Authority early next week since the Court has given its final extension of ADR to Dec. 21. It is my goal to have a final CAFO sent to the Water Authority by that date.

I have not communicated with the County or the Refuge and have only been communicating with the Water Authority.

Thanks for touching base with us. Let me know if you want to talk more.

**From:** Cardenas, Adele  
**Sent:** Friday, December 04, 2015 11:09 AM  
**To:** Chang-Vaughan, Ellen; Houston, Robert  
**Cc:** Peters, Carol; Saunders, Jerry; Honker, William; Mohon, Mitty; Garcia, David  
**Subject:** RE: ABCWUA

Ellen,

I am in Albuquerque and spoke to the Refuge manager at a meeting last night. I wanted to make sure that upon agreement that the County coordinates construction w/FHWA folks designing the new trail and road improvements on 2nd street to the refuge. If that project does not meet the amount in total a pipeline for water and wastewater to service a Visitors Center on the Refuge would be a huge piece of cost if at all possible, a big community effort supports the refuge, both citizens and local officials.

The Refuge manager and Bernalillo County Public Works are co-leads on the FLAP award, (federal land access program) is a 12-17M project and only tearing up the street once is what they want, so as much coordination as possible would be great.

Let me know if we need to coordinate a call w/FHWA in Colorado.

Thanks!  
Adele Cardenas Malott, P.E.

Sent from my Windows Phone

---

**From:** Chang-Vaughan, Ellen  
**Sent:** 11/23/2015 8:35 AM  
**To:** Cardenas, Adele; Houston, Robert  
**Cc:** Peters, Carol; Saunders, Jerry; Honker, William; Mohon, Mitty  
**Subject:** RE: ABCWUA

Thanks for the info, Adele. We were under the impression that the Refuge knew about this. This is news to us.

---

**From:** Cardenas, Adele  
**Sent:** Monday, November 23, 2015 9:32 AM  
**To:** Chang-Vaughan, Ellen; Houston, Robert  
**Cc:** Peters, Carol; Saunders, Jerry; Honker, William; Mohon, Mitty  
**Subject:** RE: ABCWUA

No worries, I just need to convey that it is in process but not yet decided. She as of now is against this since they know nothing about it and she will round up the troops who support the Refuge.

Thanks!  
Adele Cardenas Malott, P.E.

---

**From:** Chang-Vaughan, Ellen  
**Sent:** Monday, November 23, 2015 9:30 AM  
**To:** Cardenas, Adele; Houston, Robert  
**Cc:** Peters, Carol; Saunders, Jerry; Honker, William; Mohon, Mitty  
**Subject:** RE: ABCWUA



Hi Adele,

Can you please hold off on sharing for now? We are still in negotiations and have not yet determined a SEP mitigation amount. I just don't want to hinder any progress just yet. Thanks.

**From:** Cardenas, Adele

**Sent:** Monday, November 23, 2015 9:28 AM

**To:** Houston, Robert

**Cc:** Peters, Carol; Saunders, Jerry; Honker, William; Chang-Vaughan, Ellen; Mohon, Mitty

**Subject:** RE: ABCWUA

Robert,

Thank you for this information. Can I share it with my contact at FWS? I know you said it would be made public for input, cannot tell if it is out yet or not. I am not sure how it was linked to the Jet Fuel spill, probably an information session and this came up.

Thank you!

Adele Cardenas Malott, P.E.

**From:** Houston, Robert

**Sent:** Monday, November 23, 2015 9:04 AM

**To:** Cardenas, Adele

**Cc:** Peters, Carol; Saunders, Jerry; Honker, William; Chang-Vaughan, Ellen; Mohon, Mitty

**Subject:** RE: ABCWUA

Adele,

ABCWUA submitted a proposed Supplemental Environmental Project (SEP) last week for the design and construction of a non-potable reuse water line. The water line would begin at the Southside Water Reclamation Plant and end at the Valle del Oro National Wildlife Refuge. The SEP is voluntary, part of an enforcement action, and does not include a jet fuel line. Region 6 is currently gathering questions before the project is approved. Attached is the proposed SEP, let me know if you have additional questions.

Robert Houston

Offshore Oil & Gas Enforcement Coordinator

State of Oklahoma Enforcement Coordinator

U.S. Environmental Protection Agency

1445 Ross Avenue, Suite 1200 (6EN-WM)

Dallas, Texas 75202-2733

Office: (214) 665-8565

eMail: [houston.robert@epa.gov](mailto:houston.robert@epa.gov)



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**From:** Peters, Carol

**Sent:** Monday, November 23, 2015 8:39 AM

**To:** Houston, Robert

**Subject:** FW: ABCWUA

If I am remembering correctly, this is part of the SEP

Sent from my Windows Phone

---

**From:** Cardenas, Adele  
**Sent:** 11/21/2015 5:20 PM  
**To:** Saunders, Jerry  
**Cc:** Peters, Carol  
**Subject:** RE: ABCWUA

Thank you!

Adele Cardenas Malott, P.E.

Sent from my Windows Phone

---

**From:** Saunders, Jerry  
**Sent:** 11/21/2015 5:19 PM  
**To:** Cardenas, Adele  
**Cc:** Peters, Carol  
**Subject:** Re: ABCWUA

We will check on it. Thank you

Sent from my iPhone

On Nov 20, 2015, at 3:47 PM, Cardenas, Adele <[Cardenas.Adele@epa.gov](mailto:Cardenas.Adele@epa.gov)> wrote:

Jerry,  
Can you tell me if the County of Bernalillo is required under an enforcement order to place a new line as noted by my FWS partner in email thread below?

Any assistance would be appreciated.

Thanks!  
Adele Cardenas Malott, P.E.

Sent from my Windows Phone

---

**From:** Honker, William  
**Sent:** 11/20/2015 3:24 PM  
**To:** Cardenas, Adele  
**Cc:** Garcia, David; Saunders, Jerry  
**Subject:** RE: ABCWUA

The jet fuel spill at Kirtland is being managed by NMED under RCRA. For the ABCWUA enforcement action, I'd check with Jerry Saunders – I'm not sure who is handling it. The reuse line Jennifer references may not be related to a compliance issue, however.

Bill

William K. Honker, P.E.  
Director, Water Quality Protection Division (6WQ)  
EPA Region 6  
Dallas, TX  
214-665-3187  
<http://www.epa.gov/region6/water/index.htm>

<image003.jpg> <image004.jpg>

---

**From:** Cardenas, Adele  
**Sent:** Friday, November 20, 2015 1:59 PM  
**To:** Honker, William  
**Subject:** FW: ABCWUA

Bill,  
Who in Enforcement can I speak to regarding the jet fuel spill action and steps agreed upon w/County of Bernalillo?

Any thoughts would be appreciated.

Thanks!  
Adele Cardenas Malott, P.E.

Sent from my Windows Phone

---

**From:** Owen-White, Jennifer  
**Sent:** 11/17/2015 2:14 PM  
**To:** Cardenas, Adele  
**Subject:** ABCWUA

Adele,

Can you help me find info about what exactly the Albuquerque Bernalillo County Water Utility Authority is required to do for putting the reuse line along 2nd street? It would be nice for us to know what they are being required to do so we can know what to expect.

Thanks!

--

**Jennifer Owen-White**  
Refuge Manager - Valle de Oro National Wildlife Refuge  
7851 2nd street SW  
Albuquerque, NM 87105  
505-248-6667 office  
505-933-2708 cell

[Like Valle de Oro NWR on Facebook](#)



## Houston, Robert

---

**From:** Chang-Vaughan, Ellen  
**Sent:** Monday, December 07, 2015 1:29 PM  
**To:** Kolberg, Charles W.; Stomp, John M.  
**Cc:** Houston, Robert  
**Subject:** Albuquerque Consent Agreement and Final Order  
**Attachments:** CAFO 11-20-15 v1.docx

Charles and John,

I have spoken to our HQs SEP person and we can accept your SEP. I have attached the draft Consent Agreement and Final Order for your review. Please note that this CAFO has standard model language, so I will not be able to make many changes. Robert and I will contact you soon about the cash penalty component. Thanks.

Ellen Chang Vaughan  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 6  
Office of Regional Counsel (6RC-EW)  
1445 Ross Ave.  
Dallas, TX 75202  
chang-vaughan.ellen@epa.gov  
(214) 665-7328 (Office)  
(214) 665-3177 (Fax)

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DALLAS, TEXAS

Respondent

## I. PRELIMINARY STATEMENT

or Suspension of Permits," 40 C.F.R. Part 22.

administrative penalty assessment.

all the terms and conditions of this CAFO resolves only those violations alleged in the Complaint.

4. Respondent admits the jurisdictional allegations of the Complaint; however, Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in the Complaint or the Findings of Fact and Conclusions of Law contained in this CAFO.

5. Respondent expressly waives any right to contest the factual allegations or conclusions of law contained in the Complaint and this CAFO and waives its right to appeal the Final Order set forth herein.

6. Before the taking of any testimony, and without adjudication of any issue of law or fact, the Parties agree to the terms of this CAFO and to its issuance. Respondent consents to the assessment and payment of a civil penalty in the amount and by the method stated below.

## II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

7. Respondent is a political subdivision of the State of New Mexico and as such is a "person," as that term is defined at Section 502(5) of the Clean Water Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

8. At all times relevant to this action, Respondent owned or operated a wastewater treatment plant located on Second Street in Albuquerque, Bernalillo County, New Mexico ("facility"), and was therefore an "owner or operator" within the meaning of 40 C.F.R. § 122.2.

9. The Complaint specified Findings of Fact and Conclusions of Law that are hereby incorporated by reference and alleged, among other things, that at the relevant times: Respondent was a "person" that "owned or operated" a facility that acted as a "point source" subject to "discharges" of "pollutants" to identified "waters of the United States" within the meaning of Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2; Respondent and the facility were subject to the provisions of the Act, 33 U.S.C. §§ 1251-1387 *et seq.*, and the National Pollutant Discharge Elimination System ("NPDES") program; and Respondent violated Section 301 of



the Act, 33 U.S.C. § 1311, by discharging pollutants with its wastewater, to waters of the United States, as specified in the Complaint.

10. With the issuance of the Complaint, the New Mexico Environment Department was notified and given an opportunity to consult with EPA regarding the proposed assessment of an administrative penalty against Respondent.

11. EPA notified the public of the Complaint via the internet at <http://www.epa.gov/earth1r6/6en/public.html>, and afforded the public thirty (30) days to comment on the Complaint and proposed penalty. At the expiration of the notice period, EPA received no comments from the public.

### III. TERMS OF SETTLEMENT

#### A. PENALTY PROVISIONS

12. Based on the foregoing Findings of Fact and Conclusions of Law, EPA, Region 6, considering the relevant criteria pursuant to Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), and acting pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. § 1319(g), hereby orders that Respondent shall pay to the United States a civil penalty in the amount of XXXXXX dollars (\$XXXXX) to settle the violations as alleged in the Complaint, in accordance with 40 C.F.R. § 22.18(c).

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13. Payment shall be made by one of the following methods within thirty (30) days after the effective date of this CAFO:

- a. By mailing a bank check, cashier's check or certified check, payable to "Treasurer of the United States," to the following address:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

b. By wire transfer to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

c. By overnight mail (Express, FedEx, DHL, etc.):

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
Phone: 314-418-1028

d. By credit card payments to <https://www.pay.gov>

"In the Albuquerque Bernalillo County Water Utility Authority, Docket No. CWA-06-2015-1777"

should be clearly marked on each check to ensure credit for payment.

14. Respondent shall send simultaneous notices of the payment, including a copy of the check, or other remittance, to each of the following:

- (a) Regional Hearing Clerk (6RC-D)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733
- (b) Chief, NPDES Compliance Section (6EN-WC)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733
- (c) Chief, Water Legal Branch (6RC-EW)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

Respondent's adherence to these procedures will ensure proper credit when payment is received by EPA.

15. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

16. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States that are not paid by the due date and a charge to cover the cost of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. See 40 C.F.R. § 13.11(b).

17. EPA will also assess a fifteen dollar (\$15.00) administrative handling charge for administrative costs on unpaid penalties for the first thirty (30)-day period after the payment is due and an additional fifteen dollars (\$15.00) for each subsequent thirty (30)-day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent (6%) per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. See 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. See 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

18. Pursuant to Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States' enforcement

expenses including, but not limited to, attorneys' fees and costs incurred by the United States for collection proceedings, and a quarterly non-payment penalty for each quarter during which such failure to pay persists. Such non-payment penalty shall be twenty percent (20%) of the aggregate amount of such person's outstanding penalties and non-payment penalties accrued as of the beginning of each quarter.

19. Failure by Respondent to pay the penalty assessed according to the terms of this CAFO, in full, by its due date, may subject Respondent to a civil action to collect the assessed penalty and any accrued interest and penalties.

20. In the event a collection action is necessary, Respondent shall pay—in addition to any applicable penalty, fees, and interest described herein—all reasonable costs and expenses, including legal expenses and court costs, incurred by the United States for enforcement and collection proceedings for non-payment of the amounts agreed hereunder, pursuant to Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9). In any such collection action, the validity, amount, and appropriateness of the penalty, and the terms of this CAFO shall not be subject to review.

B. SUPPLEMENTAL ENVIRONMENTAL PROJECT

21. Respondent shall implement a supplemental environmental project ("SEP"), the value of which may not be less than four hundred thousand (\$400,000) dollars, which the parties agree is intended to secure significant environmental or public health improvement. The SEP involves the design and construction of a non-potable reuse water line from the Southside Water Reclamation Plant (SWRP) to the Valle del Oro National Wildlife Refuge (Refuge) in Albuquerque, New Mexico. The non-potable reuse water line for this project would help create and supply two lagoons and wetlands at the Refuge. It would also provide irrigation to street scape landscaping along a bike path on 2<sup>nd</sup> Street from Rio Bravo to the entrance to the Refuge as well as landscape projects within road medians and a trail system being developed through the

Mountain View neighborhood which is alongside the route to the Refuge. The non-potable water line would originate at the SWRP where it will be connected to the existing Southside Reuse System within the plant site and then extend east to 2<sup>nd</sup> Street and then south to the Refuge. The total length of the non-potable water line from the SWRP to the refuge is approximately 18,000 feet or about 3.4 miles. XXXXX inch XXXX pipe will be used for the construction of the line. The water line would be metered and provided with appropriate controls to provide water at needed times and in more amounts if required. All design and construction elements of the SEP shall be completed no later than December 31, 2017.

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22. Respondent is responsible for the satisfactory completion of the SEP. The total expenditure for the SEP described in paragraph 21 shall be no less than \$400,000. Respondent hereby certifies that the cost information provided to EPA in connection with EPA's approval of the SEP is complete and accurate, and that Respondent in good faith estimates that the cost to implement the SEP is \$400,000. Eligible SEP costs do not include inventory on-hand, overhead, additional employee time and salary, administrative expenses, legal fees, and oversight of a contractor. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.

23. With regard to the SEP, Respondent certifies the truth and accuracy of each of the following:

- a. That all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that Respondent in good faith estimates that the cost to implement the SEP is \$400,000;
- b. That, as of the date of executing this CAFO, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;
- c. That the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;

- d. That Respondent has not received and will not receive credit for the SEP in any other enforcement action;
- e. That Respondent will not receive reimbursement for any portion of the SEP from another person or entity;
- f. That for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP;
- g. It is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in paragraph 21; and
- h. It has inquired of the Albuquerque Bernalillo County Water Utility Authority, the Valle del Oro National Wildlife Refuge, and the Bernalillo County whether it is a party to an open federal financial assistance transaction that is funding or could fund the same activity as the SEP and has been informed by Albuquerque Bernalillo County Water Utility Authority, the Valle del Oro National Wildlife Refuge, and the Bernalillo County that none are a party to such a transaction.

24. Respondent shall submit a status report by April 1, 2015, July 1, 2015, and October 1, 2015 summarizing the SEP construction activities.

25. Any public statement, oral or written, in print, film, or other media, made by Respondent making reference to the SEP under this CAFO from the date of its execution of this CAFO shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action against Albuquerque Bernalillo County Water Utility Authority, taken on behalf of the EPA to enforce federal laws."

#### **SEP Completion Report**

26. Respondent shall submit a SEP Completion Report to EPA within forty-five (45) days after completion of all SEP activities. The SEP Completion Report shall contain the following information:

- a. A detailed description of the SEP as implemented;
- b. A description of any operating or logistical problems encountered and the solutions thereto;

- c. Itemized final costs with copies of receipts for all expenditures;
- d. Certification that the SEP has been fully implemented pursuant to the provisions of this CAFO;
- e. Photographs of the SEP construction activities from initiation of SEP to conclusion;
- f. A description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible); and
- g. A summary of the monitoring results including the effectiveness of the permeable pavements, the reduction of the pollutants, etc.

27. Respondent agrees that failure to timely submit the final SEP Completion Report to EPA shall be deemed a violation of this CAFO and Respondent shall become liable for stipulated penalties pursuant to paragraph 32.

28. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP Completion Report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

29. In the SEP Completion Report, submitted to EPA pursuant to this CAFO, Respondent shall, by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am

aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

30. After receipt of the SEP Completion Report described in paragraph 26 above, EPA will notify Respondent, in writing, regarding: (a) any deficiencies in the SEP Report itself along with a grant of an additional thirty (30) days for Respondent to correct any deficiencies; or (b) indicate that EPA concludes that the project has been completed satisfactorily; or (c) determine that the project has not been completed satisfactorily and seek stipulated penalties in accordance with paragraph 35 below.

31. If EPA elects to exercise option (a) in paragraph 30 above, i.e., if the SEP Report is determined to be deficient but EPA has not yet made a final determination about the adequacy of SEP completion itself, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency given pursuant to paragraph 30 within ten (10) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Report. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Respondent, which decision shall be final and binding upon Respondent. Respondent agrees to comply with any requirements imposed by EPA as a result of any failure to comply with the terms of this CAFO. In the event the SEP is not completed as reasonably contemplated herein, as determined by EPA, stipulated penalties shall be due and payable by Respondent to EPA in accordance with paragraph 32 herein.

**Stipulated Penalties for Failure to Complete SEP/Failure to Spend Agreed-On Amount**

32. In the event that Respondent fails to comply with any of the terms or provisions of this CAFO relating to the performance of the SEP described in paragraph 21 of this CAFO and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEP



described in paragraph 22 above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

a. Except as provided in subparagraph (b) immediately below, for a SEP which has not been completed satisfactorily pursuant to this CAFO, Respondent shall pay a stipulated penalty to the United States in the amount of \$\_\_\_\_\_ (100% of the amount the penalty was mitigated) for the SEP.

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b. If the SEP is not completed in accordance with paragraphs 21 - 22, but EPA determines that Respondent: a) made good faith and timely efforts to complete the project; and b) certifies, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on the SEP, Respondent shall not be liable for any stipulated penalty.

c. If the SEP is completed in accordance with paragraphs 21 - 22, but Respondent spent less than 90 percent of the amount of money required to be spent for the project, Respondent shall pay a stipulated penalty to the United States in the amount of \$\_\_\_\_\_ [50% of the amount the penalty was mitigated (\$\_\_\_\_\_)] for the SEP.

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d. If the SEP is completed in accordance with paragraphs 21 - 22 and Respondent spent at least 90 percent of the amount of money required to be spent for the project, Respondent shall not be liable for any stipulated penalty.

e. If Respondent fails to timely complete the SEP for any reason, Respondent shall pay stipulated penalties as follows:

<u>Period of Noncompliance</u>	<u>Penalty Per Violation Per Day</u>
1st through 30th day	\$ 200
31st day and beyond	\$ 300

f. For failure to timely submit a SEP Completion Report required by paragraph 26 above, Respondent shall pay a stipulated penalty in the amount of \$500 for each day after the report was originally due, until the report is submitted.

33. The determinations of whether the SEP has been satisfactorily completed and whether Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.

34. Stipulated penalties for paragraphs 32.e and 32.f above shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity.

35. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of paragraph 13 herein. Interest and late charges shall be paid as stated in paragraphs 16 - 17 herein.

36. The EPA may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this CAFO.

#### IV. GENERAL PROVISIONS

37. To execute this Agreement, Respondent shall forward this copy of the CAFO, with original signature, to:

Ms. Ellen Chang-Vaughan (6RC-EW)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

38. Issuance of this CAFO does not relieve Respondent from responsibility to comply with all requirements of the Act and the requirements of any permits issued thereunder, as described in Section 309(g)(7) of the Act, 33 U.S.C. § 1319(g)(7), nor does it constitute a waiver by EPA of its right to enforce compliance with the requirements of Respondent's permits or other requirements of the Act by actions pursuant to Section 309 of the Act, 33 U.S.C. § 1319.

39. The provisions of this CAFO shall be binding upon Respondent, its officers or officials, managers, employees, and their successors or assigns, in their capacity on behalf of Respondent.

40. Each party agrees to bear its own costs and attorneys' fees in this matter, except to the extent that Respondent may be responsible for reasonable costs and expenses of enforcement and collection proceedings for failure to comply with the terms of this CAFO.

41. Each undersigned representative of the Parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement and to execute and legally bind that party to it.

In recognition and acceptance of the foregoing:

\_\_\_\_\_  
Albuquerque Bernalillo County Water Utility Authority

\_\_\_\_\_  
Date

\_\_\_\_\_  
John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

\_\_\_\_\_  
Date

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in the Complaint. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers', agents', servants', employees', successors', or assigns') obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Issuance Date: \_\_\_\_\_  
Regional Judicial Officer  
EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, the original of the foregoing Consent Agreement and Final Order was hand-delivered to the Regional Hearing Clerk, U.S. EPA, Region 6 (6RC-D), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that a true and correct copy was placed in the United States mail, by certified mail, return receipt requested, addressed to the following:

Original hand-delivered:     Regional Hearing Clerk (6RC-D)  
   U.S. EPA, Region 6  
   1445 Ross Avenue, Suite 1200  
   Dallas, TX 75202-2733

Copy by certified mail,  
return receipt requested:     John Stomp  
   Chief Operating Authority  
   Albuquerque Bernalillo County Water Utility Authority  
   4201 Second St., SW  
   Albuquerque, NM 87105

Copy by mail:                 Charles W. Kolberg  
   General Counsel  
   P.O. Box 568  
   Albuquerque, NM 87103  
  
   James Hogan  
   Bureau Chief  
   Surface Water Quality Bureau  
   New Mexico Environment Department  
   P.O. Box 5469  
   Santa Fe, NM 87502-5469

Copy hand-delivered:       Ms. Ellen Chang-Vaughan (6RC-EW)  
   U.S. EPA, Region 6  
   1445 Ross Avenue, Suite 1200  
   Dallas, TX 75202-2733

Dated: \_\_\_\_\_



## Houston, Robert

---

**From:** Stomp, John M. <JStomp@abcwua.org>  
**Sent:** Friday, December 11, 2015 4:22 PM  
**To:** Chang-Vaughan, Ellen; Kolberg, Charles W.  
**Cc:** Houston, Robert  
**Subject:** RE: Albuquerque Consent Agreement and Final Order

Just a spelling error on subdivision was corrected. Meaningless really, but my eyes are drawn to those things. JMS

---

**From:** Chang-Vaughan, Ellen [mailto:Chang-Vaughan.Ellen@epa.gov]  
**Sent:** Friday, December 11, 2015 2:46 PM  
**To:** Stomp, John M. <JStomp@abcwua.org>; Kolberg, Charles W. <ckolberg@abcwua.org>  
**Cc:** Houston, Robert <Houston.Robert@epa.gov>  
**Subject:** Re: Albuquerque Consent Agreement and Final Order

John,  
The only change I see is on paragraph 28, deletion of spacing. Sorry if I am missing more. Did you do track changes?

---

**From:** Stomp, John M. <JStomp@abcwua.org>  
**Sent:** Friday, December 11, 2015 3:14 PM  
**To:** Chang-Vaughan, Ellen; Kolberg, Charles W.  
**Cc:** Houston, Robert  
**Subject:** RE: Albuquerque Consent Agreement and Final Order

Attached are some minor changes. JMS

---

**From:** Chang-Vaughan, Ellen [mailto:Chang-Vaughan.Ellen@epa.gov]  
**Sent:** Friday, December 11, 2015 7:34 AM  
**To:** Kolberg, Charles W. <ckolberg@abcwua.org>; Stomp, John M. <JStomp@abcwua.org>  
**Cc:** Houston, Robert <Houston.Robert@epa.gov>  
**Subject:** Re: Albuquerque Consent Agreement and Final Order

Charles, I made a few changes to the dates as you had requested. I changed the SEP completion date to June 2018 and reduced the number of reports. Please let me know if these changes are OK with you. Thanks.

---

**From:** Kolberg, Charles W. <ckolberg@abcwua.org>  
**Sent:** Wednesday, December 9, 2015 4:22 PM  
**To:** Chang-Vaughan, Ellen; Stomp, John M.  
**Cc:** Houston, Robert  
**Subject:** RE: Albuquerque Consent Agreement and Final Order

Ellen,

I think we are very close. Your "tweak" to my proposed language in your email below is fine. The pipe will be a minimum 6" PVC, it may be larger.

I think I already mentioned that the reporting times in paragraph 24 are wrong, also could we spread the reports out less frequently than quarterly?

Finally, the full completion by December 2017 deadline in paragraph 21 is probable but is not totally in our control, is there some way to build in some flexibility?

Thanks, let me know.

**Charles W. Kolberg**  
**General Counsel,**  
Albuquerque Bernalillo County Water Utility Authority  
PO Box 568  
Albuquerque New Mexico, 87103

(505) 289-3051 office  
(505) 917-3277 mobile

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**From:** Chang-Vaughan, Ellen [<mailto:Chang-Vaughan.Ellen@epa.gov>]  
**Sent:** Tuesday, December 08, 2015 11:54 AM  
**To:** Kolberg, Charles W.; Stomp, John M.  
**Cc:** Houston, Robert  
**Subject:** RE: Albuquerque Consent Agreement and Final Order

Hi Charles and John,

EPA is authorized to settle the case with both the proposed SEP and a cash component of \$33,500. I made a slight tweak to your proposed language change below. Also, in paragraph 7, can you tell me what kind of pipe/diameter will be used? Thanks.

Respondent admits the jurisdictional allegations of the Complaint; however, for the purposes of full and final settlement of the ~~pending litigation~~ Complaint, Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in the Complaint or the Findings of Fact and Conclusions of Law contained in this CAFO.

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**From:** Kolberg, Charles W. [<mailto:ckolberg@abcwua.org>]  
**Sent:** Monday, December 07, 2015 6:09 PM  
**To:** Chang-Vaughan, Ellen; Stomp, John M.  
**Cc:** Houston, Robert  
**Subject:** RE: Albuquerque Consent Agreement and Final Order

Ellen,



That is good news. We will await your next email. As far as the Consent Agreement and Final Order, we would like to amend Paragraph 4 as follows:

4. Respondent admits the jurisdictional allegations of the Complaint; however, for the purposes of full and final settlement of the pending litigation, Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in the Complaint or the Findings of Fact and Conclusions of Law contained in this CAFO.

The section beginning at Paragraph 21 describing the SEP, looks OK to me except that the reporting dates in Paragraph 24 are in the past. However, I will want to make sure the project guys have carefully reviewed the commitments for accuracy. Thanks.

---

**From:** Chang-Vaughan, Ellen [<mailto:Chang-Vaughan.Ellen@epa.gov>]

**Sent:** Monday, December 07, 2015 12:29 PM

**To:** Kolberg, Charles W.; Stomp, John M.

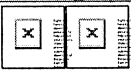
**Cc:** Houston, Robert

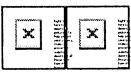
**Subject:** Albuquerque Consent Agreement and Final Order

Charles and John,

I have spoken to our HQs SEP person and we can accept your SEP. I have attached the draft Consent Agreement and Final Order for your review. Please note that this CAFO has standard model language, so I will not be able to make many changes. Robert and I will contact you soon about the cash penalty component. Thanks.

Ellen Chang Vaughan  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 6  
Office of Regional Counsel (6RC-EW)  
1445 Ross Ave.  
Dallas, TX 75202  
[chang-vaughan.ellen@epa.gov](mailto:chang-vaughan.ellen@epa.gov)

(214) 665-7328  (Office)

(214) 665-3177  (Fax)

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## Houston, Robert

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**From:** Chang-Vaughan, Ellen  
**Sent:** Wednesday, December 16, 2015 9:25 AM  
**To:** Houston, Robert; Talbot, Kristine  
**Subject:** RE: ABCWUA SEP Description

Kristine is going to look into the state water rights issue. Thanks, Kristine!

---

**From:** Houston, Robert  
**Sent:** Wednesday, December 16, 2015 9:12 AM  
**To:** sandra.gabaldon@state.nm.us; sarah.holcomb@state.nm.us  
**Cc:** Peters, Carol; Chang-Vaughan, Ellen  
**Subject:** ABCWUA SEP Description

Sandra and Sarah,

Thank you for your time today, I will contact John at the State Engineers Office to discuss water rights.

Below is a brief Supplemental Environmental Project description that ABCWUA proposed in conjunction with Administrative Order Docket Number CWA-06-2015-1777.

The SEP involves the design and construction of a non-potable reuse water line from the Southside Water Reclamation Plant to the Valle del Oro National Wildlife Refuge. The non-potable reuse water line for this project would help create and supply two lagoons and wetlands at the Refuge. It would also provide irrigation to street scape landscaping along a bike path on 2nd Street from Rio Bravo to the entrance to the Refuge. All design and construction elements of the SEP is scheduled to be completed no later than June 30, 2018.

Thanks.

Robert Houston



## Houston, Robert

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**From:** Chang-Vaughan, Ellen  
**Sent:** Thursday, January 14, 2016 1:43 PM  
**To:** Houston, Robert  
**Subject:** Re: ABCWUA

Hi Robert,

We had a briefing/call with the RA and the Tribe last Friday. During the briefing, we told the RA that we had reached out to the Tribe on the Complaint for comments and SEPs. As you know, we never did receive a real response or SEP proposals. Then in the call to the Tribe, I told them about the SEP and the fact that we will be on a hearing schedule soon. The Tribe still wanted to meet with the Water Authority and sent a letter last Thursday requesting a meeting to discuss SEPs. At this point, we are waiting for the RA to decide how to proceed. Let me know if you want to discuss. Thanks.


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**From:** Houston, Robert  
**Sent:** Thursday, January 14, 2016 1:16 PM  
**To:** Chang-Vaughan, Ellen  
**Subject:** ABCWUA

Ellen,

Checking to see if there is anything you need from the Water Enforcement Branch to continue the eRouting of the ABCWUA CAFO? Thanks.

Robert Houston  
Offshore Oil & Gas Enforcement Coordinator  
State of Oklahoma Enforcement Coordinator  
U.S. Environmental Protection Agency  
1445 Ross Avenue, Suite 1200 (6EN-WM)  
Dallas, Texas 75202-2733

Office: (214) 665-8565   
eMail: [houston.robert@epa.gov](mailto:houston.robert@epa.gov)



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## Houston, Robert

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**From:** Chang-Vaughan, Ellen  
**Sent:** Thursday, December 17, 2015 10:02 AM  
**To:** McDonald, Scott; Peters, Carol; Saunders, Jerry; Houston, Robert  
**Subject:** FW: Albuquerque Water Utility Authority - SuperCAFO

Kristine did some quick research and it looks like if the Water Authority's water development plan allows the diversion of the non-potable reuse water, there may not be a water rights issue. Please be aware, though, that water rights is a very complicated issue which vary from state to state.

---

**From:** Talbot, Kristine  
**Sent:** Wednesday, December 16, 2015 3:25 PM  
**To:** Chang-Vaughan, Ellen  
**Subject:** RE: Albuquerque Water Utility Authority - SuperCAFO

Ellen,

Under New Mexico law, the Water Authority's water rights must be based upon a water development plan. N.M. Stat. Ann. § 72-1-9. The Water Authority may hold unused water rights for a forty-year planning period for its reasonably projected additional needs. *Id.* Thus, if the Water Authority has the right to divert the non-potable reuse water for the uses described in the SEP in accordance with its water development plan, there does not appear to be a water rights issue.

Please let me know if there is anything further that I can do to assist you in this matter.

Thanks,

Kristine

Kristine Talbot  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 6  
(214) 665-8356

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**From:** Chang-Vaughan, Ellen  
**Sent:** Wednesday, December 16, 2015 9:03 AM  
**To:** Talbot, Kristine  
**Subject:** FW: Albuquerque Water Utility Authority - SuperCAFO

Can you some quick research on the water rights issue? Thanks.

**From:** Peters, Carol  
**Sent:** Wednesday, December 16, 2015 8:47 AM

**To:** Chang-Vaughan, Ellen; McDonald, Scott  
**Cc:** Saunders, Jerry; Houston, Robert  
**Subject:** RE: Albuquerque Water Utility Authority - SuperCAFO

Since water is being diverted from the outfall to the water reuse line, John/Steve wanted to know if the diverted water would cause issues with state water rights.

Carol Peters-Wagnon  
6EN-WM  
214-356-4528(work cell)  
214-665-3145

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**From:** Chang-Vaughan, Ellen  
**Sent:** Wednesday, December 16, 2015 8:31 AM  
**To:** Peters, Carol; McDonald, Scott  
**Cc:** Saunders, Jerry; Houston, Robert  
**Subject:** RE: Albuquerque Water Utility Authority - SuperCAFO

Just for clarification, this is not a Super CAFO. Sorry that I did not make this clear initially. Judge Gunning is the mediator and she had kindly given us two extensions for us to settle the case. In her status report to Judge Biro, Judge Gunning stated that December 21 would be the final date for ADR and that we were in settlement discussions. John or Steve do not need to sign the CAFO right now. I just need their approval on the CAFO before it is mailed to Albuquerque. I would like to report to Judge Gunning that the CAFO has been mailed to Albuquerque for their signature and that the CAFO will be filed in January.

We will contact NMED today and give them a general description of the proposed SEP. I am not familiar with water rights issues, but we have been told that the Water Authority will be selling non-potable water to the Refuge to supply a lagoon habitat/wetlands. (They will install a non-potable reuse line along a soon-to-be re-routed road leading to the Refuge.)

I think Adele has been coordinating with the Refuge and Highway folks. She had expressed to us that the HW folks do not to tear up the roads to have the reuse line installed. Respondent has expressed the same concern and EPA is in total agreement – the roads only need to be torn up once.

**From:** Peters, Carol  
**Sent:** Tuesday, December 15, 2015 4:54 PM  
**To:** McDonald, Scott; Chang-Vaughan, Ellen  
**Cc:** Saunders, Jerry; Houston, Robert  
**Subject:** RE: Albuquerque Water Utility Authority - SuperCAFO

John Blevins and Steve Gilrein also wanted to know if the state has any concerns that the SEP could affect Water Rights.

Carol Peters-Wagnon  
6EN-WM  
214-356-4528(work cell)  
214-665-3145

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**From:** McDonald, Scott  
**Sent:** Tuesday, December 15, 2015 4:35 PM  
**To:** Chang-Vaughan, Ellen  
**Cc:** Saunders, Jerry; Peters, Carol  
**Subject:** Albuquerque Water Utility Authority - SuperCAFO

Ellen,

Jerry and I wanted to let you know that the RA will be calling the Governor of Isleta tribe this Thursday to determine whether the Isleta have concerns or issues with the SuperCAFO and SEP. The RA will report back to Jerry on Thursday or Friday. The RA wants to know what role, if any, Adele Cardenas played in proposing and developing the SEP. Do you have any information?

Thanks,  
Scott

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## Houston, Robert

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**From:** Chang-Vaughan, Ellen  
**Sent:** Thursday, January 28, 2016 6:38 AM  
**To:** Saunders, Jerry; Peters, Carol; Houston, Robert; McDonald, Scott  
**Subject:** Fw: Update call on the Albuquerque Bernalillo County Water Utility Authority enforcement action

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From: Padilla Jr., Pablo <Tribal.Attorney@Isletapueblo.com>  
Sent: Wednesday, January 27, 2016 10:19 AM  
To: Gee, Randy  
Cc: Chang-Vaughan, Ellen  
Subject: RE: Update call on the Albuquerque Bernalillo County Water Utility Authority enforcement action

Thank you. Yes, we have a meeting scheduled for Feb. 19th here at the Pueblo. Also, I spoke with Mark Kelly from ABCWUA recently about the concerns the Pueblo has with the way in which the SEP was planned without Isleta involvement.

PABLO H. PADILLA JR., GENERAL LEGAL COUNSEL Office of the Governor, Pueblo of Isleta P.O. Box 1270 Isleta, New Mexico 87022  
Phone: (505) 869-9716; Fax (505) 869-4236  
Email: Tribal.Attorney@Isletapueblo.com

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-----Original Message-----

From: Gee, Randy [mailto:Gee.Randy@epa.gov]  
Sent: Wednesday, January 27, 2016 5:16 AM  
To: Padilla Jr., Pablo  
Cc: Chang-Vaughan, Ellen  
Subject: RE: Update call on the Albuquerque Bernalillo County Water Utility Authority enforcement action

Good morning Pablo:

Following up from the call earlier in the month, I was checking to see if the Pueblo had scheduled a meeting with Albuquerque.

Thank you for your assistance.

Randy

-----Original Message-----

From: Padilla Jr., Pablo [mailto:Tribal.Attorney@Isletapueblo.com]

Sent: Thursday, January 07, 2016 10:45 AM

To: Gee, Randy; POI36871@Isletapueblo.com; poi36004@isletapueblo.com; Culbertson, Kaydee; Cherino, Miriam; Richesin, Marie; poi36873@isletapueblo.com; Dixon, Mark

Subject: RE: Update call on the Albuquerque Bernalillo County Water Utility Authority enforcement action

Randy,

Let's schedule it for tomorrow at your proposed time.

Pablo Jr.

-----Original Message-----

From: Gee, Randy [mailto:Gee.Randy@epa.gov]

Sent: Thursday, January 07, 2016 9:39 AM

To: Padilla Jr., Pablo; Montoya, Ramona; Walker, Cody; Culbertson, Kaydee; Cherino, Miriam; Richesin, Marie; Lucero, Ruben; Dixon, Mark

Subject: RE: Update call on the Albuquerque Bernalillo County Water Utility Authority enforcement action

Good morning Pablo:

Region 6 is available for the update call at 3pm MST tomorrow, Friday, January 7 if the Pueblo is available. I can send a Microsoft Outlook calendar invite.

Thank you,

Randy Gee, Associate Director of Tribal Affairs Office of Environmental Justice, Tribal and International Affairs U.S. Environmental Protection Agency Region 6 phone (214) 665-8355 cell (972) 400-8264 fax (214) 665-2124  
gee.randy@epa.gov

-----Original Message-----

From: Padilla Jr., Pablo [mailto:Tribal.Attorney@Isletapueblo.com]

Sent: Wednesday, January 06, 2016 4:34 PM

To: Gee, Randy; POI36871@Isletapueblo.com; poi36004@isletapueblo.com; Culbertson, Kaydee; Cherino, Miriam; Richesin, Marie; poi36873@isletapueblo.com; Dixon, Mark

Subject: Re: Update call on the Albuquerque Bernalillo County Water Utility Authority enforcement action

Hi Randy,

Thank you for your email below. The Pueblo of Isleta has prioritized this matter for my office and has tasked me with carefully monitoring the pending EPA enforcement action against ABCWUA. As I am sure you are aware, in the summer of 2015 the Pueblo disagreed with the EPA's civil fine amount, assessing that it was too low given the severity of the spill and the obvious impact on the Pueblo's resources.

I am currently available the afternoons (1-5pm Mountain Time) of Jan 8th, 11th, and 13th. I hope you are available for one of these dates. The reason for scheduling this so soon is because the Pueblo's Governor recently (yesterday I

believe) sent a letter to ABCWUA requesting a meeting with the Pueblo on this matter. Our preference would be to first discuss the matter with your office, then engage ABCWUA. The Pueblo's staff and I are particularly interested in the potential for a Supplemental Environmental Project (SEP) to be proposed by ABCWUA that could benefit the river and related resources in the future.

Let us know by email when we can talk, based on the availability described above. Thank you.

Sincerely,

Pablo H. Padilla Jr.  
General Legal Counsel  
Pueblo of Isleta

"Gee, Randy" <Gee.Randy@epa.gov> wrote:

Good afternoon Mr. Padilla:

EPA Region 6 Administrator Ron Curry has requested I schedule a call with you to provide an update on the Albuquerque Bernalillo County Water Utility Authority enforcement action. Could you send me a list of days and times when you are available?

Thank you,

Randy Gee, Associate Director of Tribal Affairs Office of Environmental Justice, Tribal and International Affairs U.S. Environmental Protection Agency Region 6 phone (214) 665-8355 cell (972) 400-8264 fax (214) 665-2124  
gee.randy@epa.gov<mailto:gee.randy@epa.gov>

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From: Padilla Jr., Pablo [mailto:Tribal.Attorney@Isletapueblo.com]  
Sent: Tuesday, December 08, 2015 4:09 PM  
To: Gee, Randy; poi36004@isletapueblo.com; POI36871@Isletapueblo.com; POI17501@isletapueblo.com  
Cc: Dixon, Mark; POI17501@isletapueblo.com; Spalding, Susan  
Subject: RE: Follow-up

Good afternoon, Mr. Gee:

I'm General Legal Counsel for Isleta (and spent lots and lots of time at 1445 Ross Ave. setting up and later serving on Region 6 RTOC back in the late 1990's when I directed Zuni's Environmental Protection Program). Cody and I had a good, substantive discussion about this matter earlier today. I share the concerns raised by Cody on his email below, as well as the many discussions I've had with Ramona Montoya and Mark Dixon on the imposed threat. My preference is to schedule a call directly between EPA R6 and Isleta only, and not to include NMED at this point. Regardless of whether Isleta meets with NMED prior to or after it meets with EPA on this matter, there will be an opportunity for the three entities to talk together at a later time. That is my recommendation.

Pablo H. Padilla Jr., General Legal Counsel Office of the Governor, Pueblo of Isleta P.O. Box 1270 Isleta, New Mexico 87022

Phone: (505) 869-9716; Fax (505) 869-4236

Email: [Tribal.Attorney@Isletapueblo.com](mailto:Tribal.Attorney@Isletapueblo.com)<<mailto:Tribal.Attorney@Isletapueblo.com>>

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## Houston, Robert

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**From:** Chang-Vaughan, Ellen  
**Sent:** Wednesday, February 10, 2016 10:23 AM  
**To:** Padilla Jr., Pablo  
**Cc:** Saunders, Jerry; Gee, Randy; Culbertson, Kaydee; Cherino, Miriam; Richesin, Marie; Houston, Robert; Peters, Carol; Seager, Cheryl; McDonald, Scott  
**Subject:** RE: Meeting between Isleta and Water Authority

Dear Mr. Padilla,

Thank you for your email. I will also follow up with a phone call.

For your information, I received a scheduling order yesterday from Judge Biro. The significant date is April 8, 2016, the filing of the Consent Agreement and Final Order, as well as prehearing exchange dates which follow.

I would like to discuss some of the issues you had brought up. Firstly, EPA encouraged the Pueblo for SEP ideas, but we never received them. I sent an email to you on September 3, 2015, and you responded that same day stating that you would compile a list of SEP ideas and share them with us. We have yet to receive those SEP ideas. Secondly, EPA did not propose the SEP which would provide water to the Wildlife Refuge and for trail landscaping. It was proposed to EPA by the Water Authority and after discussing it internally, EPA determined that the SEP met the SEP criteria including nexus.

I appreciate your concern in this matter and look forward to discussing it with you more fully.

-----Original Message-----

**From:** Padilla Jr., Pablo [mailto:Tribal.Attorney@Isletapueblo.com]  
**Sent:** Tuesday, February 09, 2016 11:23 AM  
**To:** Chang-Vaughan, Ellen <Chang-Vaughan.Ellen@epa.gov>  
**Cc:** Saunders, Jerry <Saunders.Jerry@epa.gov>; Gee, Randy <Gee.Randy@epa.gov>; Culbertson, Kaydee <poi09101@Isletapueblo.com>; Cherino, Miriam <poi90021@isletapueblo.com>; Richesin, Marie <poi09103@Isletapueblo.com>  
**Subject:** Re: Meeting between Isleta and Water Authority

Hello Ms. Vaughan,

I left a voicemail for you recently. My client has directed me to contact your office prior to our upcoming meeting with ABCWUA (Feb. 19th), to voice the Pueblo's concerns over the proposed SEP. The Pueblo feels that the proposed SEP is not sufficiently tied to the health of the river and that no nexus exists between the NPDES violation and the proposed SEP.

Tribal Council and Governor also discussed the recent and negative national news about U.S. EPA, regarding (a) the gold mine spill in Colorado into a river and (b) the perceived lack of enforcement in Flynt Michigan with regard to contamination from a river. Based on this discussion, the Pueblo has invited officials from the Department of Interior, Bureau of Indian Affairs, to participate in the upcoming meeting with ABCWUA.

Both U.S. EPA and ABCWUA knew that the Pueblo had ideas on a good SEP. My office did not return calls from U.S. EPA a few months ago because our understanding, based on statements made by EPA at Tribal Council, was that the development of a SEP would come from the entity being assessed the civil violation, not from EPA itself. We have no record of ABCWUA ever reaching out to the Pueblo on a proposed SEP.

Give me a call at your convenience to discuss. My cell is (505) 917-4151. Thank you.

Pablo H. Padilla Jr.  
General Legal Counsel  
Pueblo of Isleta

"Chang-Vaughan, Ellen" <Chang-Vaughan.Ellen@epa.gov> wrote:

Dear Mr. Padilla,

I am following up on our conference call to see if a meeting has been scheduled between the Isleta and the Water Authority. If one has been scheduled, can you please let me know the date? Thank you.

Ellen Chang Vaughan  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 6 Office of Regional Counsel (6RC-EW)  
1445 Ross Ave.  
Dallas, TX 75202  
chang-vaughan.ellen@epa.gov  
(214) 665-7328 (Office)  
(214) 665-3177 (Fax)

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## Houston, Robert

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**From:** Chang-Vaughan, Ellen  
**Sent:** Tuesday, March 01, 2016 8:07 AM  
**To:** Kolberg, Charles W.  
**Cc:** Stomp, John M.; Kelly, Mark P.; Houston, Robert; Peters, Carol; Saunders, Jerry  
**Subject:** RE: Approval of Settlement Agreement, status?

Hi Charles,

I left a VM for Pablo Padilla on Friday and will contact him again today. When I did speak to him a couple of weeks ago, like you, I was under the impression that they were not opposed to the SEP.

I will follow-up with Pablo with an email and let him know of our administrative deadlines.

**From:** Kolberg, Charles W. [mailto:ckolberg@abcwua.org]  
**Sent:** Monday, February 29, 2016 6:30 PM  
**To:** Chang-Vaughan, Ellen <Chang-Vaughan.Ellen@epa.gov>  
**Cc:** Stomp, John M. <JStomp@abcwua.org>; Kelly, Mark P. <mkelly@abcwua.org>  
**Subject:** Approval of Settlement Agreement, status?

Ellen,

Have there been any developments? We hope to sign the agreement in time to avoid the deadlines in the prehearing order. I think the bottom line is that unless it is settled, we must have a face-to-face settlement conference on or before March 11<sup>th</sup>. I am not sure what we would discuss. I did not get the impression that Isleta Pueblo was opposed to our SEP, have you learned different? Please let me know. Thanks.

*Charles W. Kolberg  
General Counsel,  
Albuquerque Bernalillo County Water Utility Authority  
PO Box 568  
Albuquerque New Mexico, 87103  
(505) 289-3051 office  
(505) 917-3277 mobile*



## Houston, Robert

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**From:** Padilla Jr., Pablo <Tribal.Attorney@Isletapueblo.com>  
**Sent:** Tuesday, March 01, 2016 8:56 AM  
**To:** Chang-Vaughan, Ellen  
**Cc:** Houston, Robert; Peters, Carol; Saunders, Jerry  
**Subject:** RE: Albuquerque

Good morning, Ellen. I will give you a call in about an hour to discuss this matter.

Pablo H. Padilla Jr., Esq.

----- Original message -----

From: "Chang-Vaughan, Ellen" <Chang-Vaughan.Ellen@epa.gov>  
Date: 03/01/2016 7:22 AM (GMT-07:00)  
To: "Padilla Jr., Pablo" <Tribal.Attorney@Isletapueblo.com>  
Cc: "Houston, Robert" <Houston.Robert@epa.gov>, "Peters, Carol" <Peters.Carol@epa.gov>, "Saunders, Jerry" <Saunders.Jerry@epa.gov>  
Subject: Albuquerque

Good morning,

I am following up on your February 19, meeting with the Water Authority. The Water Authority and EPA are under a scheduling order and we have to have a settlement conference by March 11, 2016, file a status report by March 18, 2016 and file a CAFO by April 8, 2016. I am on vacation for spring break starting on March 4, this Friday, and would like to have this SEP issue wrapped up by this Thursday, March 3.

When we spoke on February 19, I was under the impression that the Isleta would not oppose the SEP, but would like to have six action items included in the new permit. I would advise you to request a meeting with the permit folks to discuss these action items.

If you can get back to me today, I would greatly appreciate it since both EPA and the Water Authority are ready to file the CAFO to stay in compliance with the scheduling order. Thank you.

Ellen Chang Vaughan  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 6 Office of Regional Counsel (6RC-EW)  
1445 Ross Ave.  
Dallas, TX 75202  
chang-vaughan.ellen@epa.gov  
(214) 665-7328 (Office)  
(214) 665-3177 (Fax)

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## Houston, Robert

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**From:** Chang-Vaughan, Ellen  
**Sent:** Thursday, March 03, 2016 12:35 PM  
**To:** Saunders, Jerry; Houston, Robert; Peters, Carol; Mitchell, Mary-Anne  
**Subject:** Albuquerque CAFO

Since we have been given the green light to go forward with the Albuquerque Bernalillo County Water Utility Authority SEP, we can have John approve the CAFO. Can John do that soon given that we are under a scheduling order? I would like to send a PDF of the CAFO to Albuquerque as soon as possible and then have Albuquerque scan the signature page and overnight the original. We can start circulating the concurrence package as soon as we receive the PDF and then stick in the original when we receive it. Thanks!

Ellen Chang Vaughan  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 6  
Office of Regional Counsel (6RC-EW)  
1445 Ross Ave.  
Dallas, TX 75202  
chang-vaughan.ellen@epa.gov  
(214) 665-7328 (Office)  
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